

# Federal Parks & Recreation

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## **NPS Centennial among few gainers in House money bill**

The Republican-dominated House Appropriations Committee July 15 approved an extra \$40 million for the Park Service in anticipation of its Centennial in 2016, as requested by the Obama administration.

Of that, \$10 million would be used as a Centennial Challenge program that would have nonfederal partners match appropriations dollar-for-dollar.

"This bill also provides \$2.27 billion for operation of the national parks including \$40 million in requested funding related to the Centennial of the National Park System," said subcommittee on Interior and Related Agencies Chairman Ken Calvert (R-Calif.)

The extra money for the Centennial comes in a fiscal year 2015 Interior and Related Agencies appropriations bill that is severely strapped for cash. The subcommittee's spending cap is virtually the same as for fiscal 2014, but almost \$900 million for fire fighting and payments-in-lieu of taxes (PILT) had to come off the top.

Ranking Interior subcommittee Democrat James Moran (D-Va.) said the fire and PILT payments don't belong in the bill, and would prevent necessary spending.

"The subcommittee's (spending cap) of \$30.22 billion appears to be higher than last year," he said. "But when you factor in increased fire-fighting costs and the majority's decision to fund payments-in-lieu of taxes from discretionary appropriations, we are left with less funding overall than the subcommittee received last year."

As a consequence, he said,

"Important programs like LWCF are badly underfunded and many other programs and agencies like the National Park Service, the Fish and Wildlife Service, and the like are flat funded."

Calvert defended the LWCF allocation. "The bill also provides \$152 million for the Land and Water Conservation Fund, a program that enjoys broad bipartisan support," he said. "Some members would prefer more funding; others would prefer less funding. We have attempted to forge a middle ground in this bill."

However, the committee would reduce federal land acquisition by \$138 million, from \$187 million in fiscal 2014 to \$49 million in fiscal 2015. It would appropriate \$46 million for the state side of LWCF, or \$2 million less than a fiscal 2014 appropriation. (See related LWCF article page 7.)

For operation of the National Park System the committee approved \$2.269 billion, or \$15 million less than the administration request of \$2.284 billion but \$32 million more than a fiscal 2014 appropriation of \$2.237 billion.

In addition to money the committee delved into substantive policy by approving, by Moran's count, 24 riders and other provisions to halt programs. Notably the committee would extend the federal recreation fee law for one year. (See following article on riders.) (See rec fee article on page 5.)

The bill now goes to the House floor, despite the controversies. Last year a similarly controversial Interior bill never saw committee or floor action in the House and was swept into an all-agency continuing resolution (PL 113-76 of January 17).

**Centennial:** In its March 4 fiscal 2015 budget request the Obama administration asked Congress for between \$647 million and \$847 million in new money for the Park Service Centennial, depending on who is estimating. Of that \$40 million would be appropriated and the rest put up by authorizing committees.

The \$40 million in appropriations would be followed by authorizing legislation that would provide up to \$400 million per year from a new Congressional Centennial initiative. Finally, in the third prong NPS could compete for some of \$200 million per year in government-wide Opportunity, Growth and Security Initiative money.

Of the appropriated \$40 million, \$30 million would be used to support operations, said a subcommittee report. "The Committee recognizes the importance of this historic national celebration and is committed to its success," the report says. "Accordingly, the Committee is providing \$30 million, as requested, within the National Park Service Operations account to support the Centennial Initiative and related efforts to address the Service's deferred maintenance backlog."

Of the \$10 million to be set aside for the Challenge program, the subcommittee warned the Park Service not to try to use it for regular operations. "The Committee reminds the Service that the amount provided for the Centennial Challenge is intended to supplement funding for core operations. The Committee expects the Service to fully fund day-to-day operational costs of the parks through its core operations accounts," said the panel's report.

**Some numbers:** Here are some of the details of the allocations in the fiscal 2015 committee bill:

**LWCF FEDERAL:** In total the committee approved \$49 for federal land acquisition, or \$138 million less than a fiscal 2014 appropriation of \$187 million. By agency the Bureau of Land Management (BLM) would receive \$4.8 million compared to \$19.5 million in fiscal 2014, the Fish and Wildlife Service (FWS) would receive \$14.5 million compared to \$54.4 million, the Park Service would receive \$21.5 million compared to \$50 million and the Forest Service would receive \$8 million compared to \$43.5 million.

**LWCF STATE:** The committee would appropriate \$46 million, or \$2 million less than the \$48 million in fiscal 2014.

PARK SERVICE OPERATIONS: The committee approved \$2.269 billion, or \$32 million more than a fiscal 2014 appropriation.

PARK SERVICE RECREATION AND PRESERVATION: The committee approved \$52 million, about the same as the fiscal 2014 appropriation.

PARK SERVICE CONSTRUCTION: The committee approved \$138 million, about the same as the fiscal 2014 appropriation.

PARK SERVICE HISTORIC PRESERVATION: The committee approved \$56 million, the same as the fiscal 2014 appropriation.

STATE WILDLIFE CONSERVATION GRANTS: The committee approved \$58.7 million, the same as the fiscal 2014 appropriation.

NATIONAL HERITAGE AREAS: The committee approved \$9.2 million, or \$9.2 million less than the fiscal 2014 appropriation of \$18.4 million.

NATIONAL FOREST SYSTEM: The committee approved \$1.497 billion, the same as the fiscal 2014 appropriation.

NATIONAL FOREST RECREATION: The committee approved \$263.9 million, or \$2.2 million more than in fiscal 2014.

NATIONAL FOREST TRAILS MAINTENANCE AND CONSTRUCTION: The committee approved \$86.8 million, or \$11.8 more than in fiscal 2014.

BLM RESOURCE MANAGEMENT: The committee approved \$957 million, the same as the fiscal 2014 appropriation.

BLM RECREATION MANAGEMENT: The committee approved \$63.9 million, or \$3 million less than in fiscal 2014.

BLM LANDSCAPE SYSTEM MANAGEMENT: The committee approved \$30.8 million, or \$1 million less than in fiscal 2014.

WILDLIFE REFUGE MANAGEMENT: The committee approved \$477 million, the same as the fiscal 2014 appropriation.

FIRES: The committee came up with an extra \$758 million in fire-fighting money, compared to this year (fiscal 2014), counting a \$470 million payback for fiscal 2014. For the Forest Service it approved \$2.888 billion for regular fire fighting and fire prevention expenses, compared to a \$2.162 billion fiscal 2014 appropriation.

For the Interior Department the committee approved \$805 million in regular firefighting and fire prevention expenses, compared to a \$741 million appropriation in fiscal 2014.

For emergency fire-fighting costs in a program called FLAME for the Forest Service and Interior Department combined the panel approved about the same amount of money as is in the fiscal 2014 bill, \$395 million in fiscal 2015 and \$407 million in fiscal 2014.

## **FLREA among riders in House approps committee money bill**

The House Appropriations Committee approved a one-year extension of the federal recreation fee law July 15 in the course of passing a fiscal year 2015 Interior and Related Agencies appropriations bill.

The present law, the Federal Lands Recreation Enhancements Act of 2004 (FLREA), is scheduled to expire on Dec. 8, 2015. If the committee provision were enacted, it would extend the law through Dec. 8, 2016.

The extension would give Congress time to write a multi-year update to FLREA and time for federal land management agencies and concessioners to prepare for a new law. Indeed the House Natural Resources Committee had scheduled - but postponed at the last minute - a mark-up of a multi-year fee bill July 16. *(See following article.)*

The FLREA provision was but one of 24 riders or program blockages included in the bill by committee Republicans, according to ranking minority member James Moran (D-Va.), to his irritation.

"This bill has suffered deeper

cuts over the last decade than any other appropriations bill. . . .” Moran said. “This indiscriminate cutting has been compounded by people who think more of the next election than the next generation and they have loaded the bill up with politically-inspired riders.”

But subcommittee On Interior and Related Agencies Chairman Ken Calvert (R-Calif.), who drafted the bill, criticized the Obama administration for excessive regulation. “Again this year there is a great deal of concern over the number of regulatory actions being pursued by EPA in the absence of legislation and without clear-cut Congressional direction,” he said. “For this reason the bill includes a number of provisions to address some of these concerns and to stop unnecessary and damaging regulatory overreach by the agency.”

Moran did offer an amendment in committee to strip the 24 amendments but the panel rejected it.

Two of those riders aimed at EPA have special implications for the outdoors - one to block a proposed regulation targeting coal power plants and one to block a proposed regulation to expand the kinds of wetlands requiring permits.

The bill goes next to the House floor. Last year a similarly controversial Interior bill never saw committee or floor action in the House and was swept into an all-agency continuing resolution (PL 113-76 of January 17). Here are some of the riders in the bill:

**FLREA EXTENSION (Section 425):** The committee would extend the law for one year until Dec. 8, 2016. Theoretically, that gives Congress time to revise or extend FLREA over a long term.

*(Ed. Note. In a July 11 FPR Bulletin we said the provision would extend FLREA for two years. It is actually one year. The wording of the bill extended the original law by two years but in the interim Congress has extended the law by one year.)*

Led by the House subcommittee on Public Lands and its chair Rob Bishop (R-Utah), Congress has begun to work on a long-term bill.

The counterpart Senate subcommittee on National Parks and subcommittee on Public Lands have been less active than the House panel. The former chairman of the Senate Energy Committee Ron Wyden (D-Ore.) had been committed to acting this year but he has ceded the chairmanship to Sen. Mary Landrieu (D-La.), who has expressed little interest in the subject.

Thus far, the major players in the game, except for forest recreation users, have generally supported Bishop’s initiative. The players include the Obama administration, industry, outfitters and environmentalists. The basics include entrance fees, return of fee revenues to agencies and inclusion of the Corps of Engineers.

**RIDER CLIMATE CHANGE (Section 435):** The committee would forbid EPA from completing a proposed June 2 rule that would reduce carbon emissions from existing power plants, a plan that environmentalists say would be a boon to the national parks. But the mining industry says the plan would place an unacceptable economic burden on society.

This provision is going a long way toward stalling appropriations bills in the Senate. Senate Minority Leader Mitch McConnell (R-Ky.) and his Senate allies promise to offer the rider at every opportunity, confident they can swing enough Democratic votes to block the rule.

**RIDER WETLANDS (SECTION 429):** The committee would forbid EPA from completing a proposed May 29 rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act. EPA and the Corps of Engineers in their proposal said that the rule would go beyond the existing regulation that only requires a permit for navigable waters. The new proposal would also require permits for seasonal streams, wetlands near navigable waters and other waters. *(See related article page 11.)*

RIDER WATER RIGHTS (SECTION 438): The committee would forbid any agency from attempting to transfer water rights to the federal government on renewal of a permit. This is aimed at a Forest Service policy, since retracted, that would have allowed the agency to assert a water claim when a ski resort renewed a permit. The service June 20 did pull its old policy and propose a new one to allow ski resorts to keep their water.

RIDER OCEAN POLICY (SECTION 432): The committee would block implementation of a National Ocean Policy proposed by the Obama administration. House Republicans argue the administration policy would lead to zoning of the ocean and a decrease in recreational fishing opportunities. This provision is also included in an Energy and Water appropriations bill (HR 4923) that the House approved July 10.

### **House panel may act on long-term fed entrance fee bill**

The House Natural Resources Committee July 16 scheduled but then postponed action on legislation that would revise a federal lands recreation fee program and extend it for several years.

A draft bill, written under the lead of House Public Lands subcommittee chairman Rep. Rob Bishop (R-Utah), meets many of the recommendations of the Obama administration and the recreation establishment. But it also offends public lands users, particularly backcountry visitors.

A committee staff member said the bill would be taken up at the next committee meeting.

The draft bill includes the main structure of the existing law, the Federal Lands Recreation Enhancements Act of 2004 (FLREA). That is, the measure would continue to authorize federal land managers to charge entrance fees, would allow agencies to retain fee revenues to improve facilities, would include the Corps of Engineers in the program and would establish a transparent process for the public to

participate in project decisions.

FLREA is due to expire on Dec. 8, 2015. But the Interior Department and the Forest Service want action now because it takes a good year to plan projects that are financed by fee revenues, so passage of a bill this year is crucial.

To cover the authorizing committee the House Appropriations Committee July 15 approved an amendment to a fiscal year 2015 Interior and Related Agencies appropriations bill that would extend the existing program one year through Dec. 8, 2015.

The Interior Department and the Forest Service generally backed the principles in Bishop's draft. But Pamela Haze, deputy assistant secretary for budget for the Interior Department, told Bishop's subcommittee the reauthorization should be permanent, not the five years in the bill. Again, we will have to see what Bishop's formal bill says about tenure.

A particularly influential alliance of industry, conservationists, concessioners, and state and local governments generally supported the basics in the Bishop draft. However, the alliance said federal agencies and its partners have not made federal recreation areas sufficiently visible to the public, particularly to young and diverse populations.

The Senate Energy Committee has announced no plans to consider legislation to revise or extend FLREA. Former committee chairman Sen. Ron Wyden (D-Ore.) had talked about preparation of a comprehensive Park Service Centennial bill that was expected to address federal recreation fees. But he has been replaced as chair by Sen. Mary Landrieu (D-La.) And she has concentrated most of her fire on energy policy, not natural resources.

If the Senate Energy Committee doesn't act, that would leave an extension or revision up to the Senate Appropriations subcommittee on Interior and its chairman, Jack Reed (D-R.I.)

**Background:** FLREA, as enacted on Dec. 8, 2004, as PL 108-447, Section 804, was only good for 10 years. An interim appropriations law (PL 113-46 of Oct. 16, 2013) extended it through Dec. 8, 2015. The law produces about \$270 million per year in fee revenues and most of the money is used to improve recreation facilities.

The Park Service brings in from fees about \$179 million per year, or about eight percent of its recreation budget; the Forest Service takes in about \$66 million, or 25 percent of its recreation budget; the Bureau of Land Management receives \$18 million, or 25 percent of its recreation budget; the Fish and Wildlife Service grosses \$5 million, or one percent of its recreation budget; and the Bureau of Reclamation receives less than \$1 million.

**Fee critics:** Most criticism of the draft Bishop bill came from the people who are some of the most frequent visitors to national forests, Bureau of Land Management lands and national parks - members of an organization called the Western Slope No-Fee Coalition.

Coalition President Kitty Benzar has taken issue with the basic premise behind FLREA, i.e. raising money from federal land users. "For eighteen years the federal land management agencies have viewed American citizens as customers rather than owners, and have increasingly managed basic access to outdoor recreation as an activity that must generate revenue, rather than as an essential service that promotes a healthy active population," she has said.

## House and Senate acting on stopgap money for MAP-21

The House July 15 approved legislation (HR 5021) that would provide stopgap revenues to keep surface transportation programs afloat through May 31. The vote was an overwhelming 367-to-55.

The Senate may act on a similar bill next week, but House leaders object to important aspects of the Senate bill.

Congress is attempting to prevent a shutdown in surface transportation programs because the Highway Trust Fund is running out of money. The two bills would provide a short-term infusion of \$11 billion from a mix of revenues.

Theoretically, the short-term fix would give Congress time to write a multi-year surface transportation bill with guaranteed revenues.

Said House Transportation Committee Chairman Bill Shuster (R-Pa.), "This bill in no way precludes Congress from continuing to work on addressing a long-term funding solution, and a long-term reauthorization bill remains a top priority for the Transportation Committee. However, this legislation is the responsible solution at this time, ensures that we don't play politics with these programs, and provides for making continued improvements to our surface transportation system."

However, Shuster has made little progress in developing a multi-year bill in his committee. No draft bill has been introduced. On May 30 House Republican leaders did offer a new fund raising proposal - elimination of Saturday postal delivery, with the savings passed on to highway programs. Speaker of the House John Boehner (R-Ohio), House Majority Leader Eric Cantor (R-Va.) and Majority Whip Kevin McCarthy (R-Calif.) said the proposal was "the best way to ensure continued funding of highway projects in a fiscally responsible manner" in a memo to Republican members. Senate Democrats quickly dismissed that proposal.

The Senate is moving a bit more quickly on an authorizing bill. The Senate Environment and Public Works (EPW) Committee approved such legislation (S 2322) May 15 that would extend the existing law, Moving Ahead for Progress in the 21<sup>st</sup> Century (PL 112-141 of July 6), for two years.

But EPW doesn't pay the bills. The Senate Finance Committee does and it put together an interim patch that would add \$11 billion to the pot to keep surface transportation programs alive. The committee approved the bill July 10.

The Senate reportedly may now attempt to revise the House-passed HR 5021 rather than try to move the Senate Finance Committee bill through the fractious Senate.

The Senate extension bill would rely on 13 financial strategies (user fees, taxes, etc.) to come up with the \$10.8 billion, which would come out of federal revenues for the next 10 years.

The House, under Ways and Means Committee chairman Dave Camp (R-Mich.), would get the \$11 billion from three sources - pension smoothing, customs user fees and leaking underground storage tanks.

Although both houses are beginning to act Camp sharply criticized the Senate Finance Committee bill for increasing taxes.

Senate EPW Committee Chair Barbara Boxer (D-Calif.) objects to the length of the extension, arguing that it should only run through the end of the year. That way, she said, Congress would be forced to make the hard decisions a long-term highway bill.

Although she refers just to the House in this July 8 statement it also should apply to the Senate: "The House's plan to kick the can down the road and pass a temporary patch for the Highway Trust Fund until next May derails the effort to pass a long-term transportation bill this year. This ill-conceived proposal would prolong uncertainty for business, local governments and the states and would create another financial crisis right before the next construction season. Passing a long-term transportation bill this year would provide a real boost for our economic recovery. The American people have a right to expect no less."

Politics enters the debate in a big way. Senate Democrats want Congress to act now on a multi-year bill while they are still in control. Senate Republicans want to delay things until the next Congress when they might be in charge. If Republicans do take over, they might attempt to eliminate outdoor program funding from MAP-21, as the Sen.

Toomey proposal below indicates.

Boxer's EPW committee bill, S 2322, would extend the overarching Transportation Alternatives Program that feeds specific outdoor programs with money, such as Recreational Trails, Transportation Enhancements, Scenic Byways, Safe Routes to School.

In a related development during a Senate Finance Committee session June 26 Sen. Pat Toomey (R-Pa.) mounted a campaign to eliminate money for the Transportation Alternatives Program (TAP). If successful that would deal a major blow to park and rec programs.

Toomey offered an amendment in the Senate Finance Committee that would forbid any Highway Trust Fund money from being used for TAP, which allocates more than \$700 million per year to recreation programs. No vote has been taken yet on the Toomey amendment.

Transportation spending for recreation and trails is also under assault in the House. On June 10 the House approved a fiscal year 2015 appropriations bill (HR 4745) that would bar the use of regional grant money called TIGER for recreation and trails projects. Although rec and trails money was dropped from TIGER by the House, several members pointed out such projects serve as economic engines for local communities.

## **Jockeying over LWCF picks up; House panel slashes approps**

The battle for a substantial appropriation for the Land and Water Conservation Fund (LWCF) has been joined in earnest in the last fortnight.

Most immediately, the House Appropriations Committee July 15 approved a \$138 million reduction in federal land acquisition in a fiscal year 2015 appropriations bill for the Interior Department and Related Agencies. The committee approved just \$46 million, compared to a fiscal 2014 appropriation of \$187 million.

Because of a limited budget

allocation and other factors, Rep. James Moran (D-Va.) complained, "The overall severe funding level means that programs like the Land and Water Conservation Fund are badly underfunded and many other programs in the agencies are flat funded." Moran is the ranking Democrat on the House subcommittee on Interior that drafted the bill.

But subcommittee chairman Ken Calvert (R-Calif.) defended the LWCF allocation. "The bill also provides \$152 million for the Land and Water Conservation Fund, a program that enjoys broad bipartisan support," he said. "Some members would prefer more funding; others would prefer less funding. We have attempted to forge a middle ground in this bill."

The LWCF battle is particularly intense this year because the 50-year old law is due to expire at the end of fiscal 2015 (Sept. 30, 2015). The Obama administration has for the last two fiscal years recommended that Congress guarantee LWCF \$900 million per year in perpetuity, drawing on new levies on the energy industry. For fiscal 2015 the administration requested \$187 million in regular appropriations for federal land acquisition and \$48 million for state grants from the fund.

Former Sen. Max Baucus (D-Mont.) introduced legislation (S 338) last year that would also extend LWCF at \$900 million per year in *guaranteed* money. Senate Finance Committee Chairman Ron Wyden (D-Ore.) is reportedly considering a package of legislation that would reauthorize LWCF in combination with reauthorizing county assistance programs such as Secure Rural Schools and payments-in-lieu of taxes.

Secretary of Interior Sally Jewell launched a mini-campaign in support of LWCF July 7 at a press conference, promising to visit red and blue states. She complained that Congress has failed to appropriate \$18 billion for LWCF over the last half-century. The \$18 billion has been posted into the account from offshore oil and gas royalties.

Asked if she had been lobbying House members for support, Jewell said,

"We haven't got a commitment yet from individual members of the House. This is all a moving target with legislative proposals."

She added, "We do know from our conversations with individual members of Congress there are many people who support full and mandatory funding for LWCF on both sides of the political aisle and across the whole country."

The Senate is more supportive of LWCF than the House. Fifty-one senators wrote Senate leaders this spring in support of LWCF, including several Republicans. Leading the effort were Sens. Patrick Leahy (D-Vt.) and Richard Burr (R-N.C.)

On July 8 Sen. Kelly Ayotte (N.H.), a Republican, introduced an amendment to an omnibus sportsmen's bill (S 2363) that would guarantee full funding of \$900 million per year for LWCF. Said Ayotte, "LWCF has been used to protect thousands of acres in New Hampshire - without using taxpayer dollars. The amendment I introduced is a continuation of my efforts to bolster this critical conservation program, which has made a real difference in our state."

On July 10 another Republican senator, Susan Collins (Me.), introduced a sense of the Senate amendment to the same sportsmen's bill encouraging Congress to reauthorize the program. Four other Republicans, including Ayotte, cosponsored Collins's amendment.

But western Republican senators are not as enthusiastic. The office of a more influential Republican on the issue, Sen. Lisa Murkowski (R-Alaska), blasted LWCF in a July 11 notice to the press.

Noting the Obama administration's request for \$900 million for LWCF in fiscal 2015, Murkowski's office said the request "ignores the fact that the National Park Service, the Fish and Wildlife Service, and the Bureau of Land Management are already looking at collective maintenance backlogs of more than \$14 billion. While America's crown jewels are falling apart, Secretary



Jewell is gallivanting around the country demanding the federal government gobble up even more land."

Murkowski is ranking Republican not only on the Senate Energy Committee but also on the Senate subcommittee on Interior appropriations.

Here's what the House Appropriations Committee did on LWCF July 15:

LWCF FEDERAL: In total the committee approved \$49 for federal land acquisition, or \$138 million less than a fiscal 2014 appropriation of \$187 million. By agency the Bureau of Land Management (BLM) would receive \$4.8 million compared to \$19.5 million in fiscal 2014, the Fish and Wildlife Service (FWS) would receive \$14.5 million compared to \$54.4 million, the Park Service would receive \$21.5 million compared to \$50 million and the Forest Service would receive \$8 million compared to \$43.5 million.

LWCF STATE: The committee would appropriate \$46 million, or \$2 million less than the \$48 million in fiscal 2014.

## **Sportsmen's bill caught in crossfire between R's, D's**

A wildly popular sportsmen's bill failed on the Senate floor July 10, caught in the political war between Democrats and Republicans in an election year.

The proximate cause of defeat was the refusal of Senate Majority Leader Harry Reid (D-Nev.) to allow any of 80 amendments to come to the floor. Reid said many of those amendments, such as gun rights, were designed to force Democrats to vote on controversial issues. He said Republicans were willing to sacrifice the bill for political gain.

But Senate Republicans countered that Reid had promised to hold an open amendments process for the bill. Said Sen. Lisa Murkowski (R-Alaska) who at once cosponsored the measure and voted for a filibuster to block it, "Today's

vote is another unfortunate illustration that good, meaningful legislation is being stopped in its tracks because the majority leader refuses to allow any sort of amendment process."

The measure, sponsored principally by Sen. Kay Hagan (D-N.C.) and Murkowski, is probably dead through the November 4 elections. But it may be revived in a lame-duck session.

Lead cosponsor Hagan agreed with Murkowski that Reid should have allowed votes on amendments. "I believe the Senate should have considered sportsmen-related amendments, including those dealing with gun issues important to sportsmen and women, and I am disappointed that politics prevented us from reaching an agreement this week," said Hagan.

But she said she has not given up yet. "However, I will continue working with Senator Murkowski and my colleagues to find a path forward so that this bill that benefits hunters, anglers and outdoor enthusiasts in North Carolina and across the nation doesn't fall victim to political posturing," she said.

Bill supporters - and there are many - are focusing on a possible lame-duck session, said Steve Kline, director of government relations for the Theodore Roosevelt Conservation Partnership. "That's where we are heading now and will be advocating for," he said. "Theoretically, they could attach it to anything moving, a transportation bill or an appropriations bill."

But action before the November 4 elections is probably out of the question. "Senate floor time is not a trifling thing," said Kline. "It is hard to get. I don't suspect this bill will get Senate floor time again in this Congress." So the bill would have to be attached to some other must-pass measure in the lame duck.

Among other things S 2363 would allocate at least 1.5 percent of Land and Water Conservation Fund money to acquire access to public lands for hunting and fishing. The measure also

includes a package of hunting and fishing bills that have been around for the last two Congresses, such as declaring public lands open to hunting and fishing unless specifically closed.

The lead House sportsmen's bill (HR 3590), approved by the House February 5, includes nine separate hunting and fishing bills that had been introduced separately. Most of the provisions are in Hagan's Senate bill.

The Senate measure also includes provisions to reauthorize the land sale/acquisition law called the Federal Land Transaction Facilitation Act; reauthorize the North American Wetlands Conservation Act; exempt lead ammunition and fishing tackle from the Toxic Substance Control Act; and limit fees for filming crews of five persons or more to \$200 per year.

Some of the consequential amendments proposed for S 2363 for the Senate floor would guarantee the right to bear arms at Corps of Engineers projects, reverse a Park Service plan for the Cape Hatteras National Seashore that reduced beach access to off-road vehicles, establish a new system of fees for cabin owners within the National Forest System, and establish a 210,000-acre Rocky Mountain Front Conservation Area in Montana.

## **Critics again criticize FS oversnow ORV regulations**

Backcountry national forest recreationists are criticizing a Forest Service proposal to delegate responsibility to field offices for opening territory to oversnow off-road vehicles (ORV). Naturally, ORV interests like the idea.

Under the court-ordered June 18 proposal the service would allow ranger districts and other offices to decide if an area should either be open-unless-closed or closed-unless-opened. That, say the backcountry enthusiasts, contradicts a broader ORV rule that assumes areas are closed to ORVs unless opened.

"This element of the draft is inconsistent, and would be confusing on the ground," said the Winter Wildlands Alliance. The alliance brought a lawsuit that persuaded a federal court to order the Forest Service to write the oversnow ORV regulation.

The alliance added that "the rule proposes to change the definition of an 'area' to include landscapes even broader than a Ranger District, with groomed trails in that area not subject to analysis. Groomed trails concentrate use, and cross-country snowmobile travel, while certainly appropriate in some places, also has impacts."

The BlueRibbon Coalition, which represents powered recreation interests, generally endorsed the Forest Service proposal. In a July 10 alert to its members the coalition said, "We support this Proposed Rule as a fair and reasonable implementation of the Idaho district court's judgment because it allows flexibility for the local official. Allowing flexibility to the local decision maker is crucial due to the extreme local differences across the Snowbelt, while still protecting the resources."

In 2005 the Forest Service published an initial regulation that led to the designation of roads, trails and other areas that were either available to ORVs or off limits to ORVs. However, that rule exempted snowmobiles and other oversnow vehicles.

Winter Wildlands Alliance, which represents backcountry winter recreationists, sued. On March 29, 2013, U.S. Magistrate Judge Ronald E. Bush ruled for the recreationists that the Forest Service could not exclude oversnow vehicles from the rule. Now the Forest Service has until September 9 to write a new rule.

As the judge directed the Forest Service in his 2013 decision, the agency June 18 proposed to amend the existing travel management rule to include snowmobiles. Once the overarching amendment is completed individual forests would then revise their individual travel management plans to

specify where snowmobiles may or may not go.

The Forest Service says that it manages more than 200,000 miles of roads and 47,000 miles of trails that are open to motorized vehicles. The agency says the "roads and trails vary greatly, from single-track trails used by motorcycles to roads designed for high-clearance vehicles such as logging trucks."

Judge Bush held in his decision last year that a 1972 Executive Order 11644 from President Carter included oversnow vehicles in a mandate to regulate access to federal lands by ORV vehicles. Indeed the executive order does say that ORV "means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain." Emphasis ours.

In its draft rule the Forest Service said, "Under the amended subpart C, the responsible official could establish a system of routes and areas where OSV use is prohibited except where allowed or a system of routes and areas where OSV use is allowed unless prohibited."

More information is available at: <http://www.regulations.gov/#!documentDetail;D=FS-2014-0004-0001>.

## **House bill would bar spending on EPA/Corps wetlands rule**

The House July 10 approved legislation (HR 4923) that would block a proposed Obama administration rule governing wetland permitting.

The fiscal year 2015 Energy and Water Appropriations bill now goes to the Senate where the Senate Appropriations Committee is already tied in knots over the provision.

Sen. John Hoeven (R-N.D.) has said he would offer the blocking amendment in committee during consideration of the Energy and Water spending bill. The provision poses a political problem for the Senate Democratic majority because

enough Democratic senators may support it to pass.

To further complicate matters the House Appropriations Committee July 25 approved a fiscal 2015 Interior and Related Agencies bill with the wetlands rider in it.

The rider is aimed at a proposed rule that the Corps of Engineers and EPA jointly proposed May 29 to significantly expand the definition of water projects subject to a Section 404 wetlands permit. In that the Energy and Water bill appropriates money for the Corps of Engineers and the Interior bill appropriates money for EPA, critics of the rule have two chances to stop the proposal.

Sportsmen are asking the Senate to support enactment of the rule. The Theodore Roosevelt Conservation Partnership (TRC) wrote Senate Majority Leader Harry Reid July 9 and said, "(W)e urge you to oppose any amendments that would derail the proposal by the U.S. Army Corps of Engineers and Environmental Protection Agency to clarify and restore longstanding Clean Water Act protections for headwater streams and wetlands across the country."

The energy and water spending bill, HR 4923, was approved by the House by a vote of 253-to-170. It is now stuck in the Senate Appropriations Committee. Not only have Senate Republicans threatened to introduce the wetlands amendment, they also said they will attempt to block a proposed June 2 administration rule that would reduce carbon emissions from existing power plants.

Being an appropriations bill, HR 4923 also would put up money. For the Corps of Engineers it would appropriate \$5.5 billion in fiscal 2015, or \$25 million more than the fiscal 2014 appropriation and \$959.5 million more than the Obama administration's request. For the Bureau of Reclamation the bill would appropriate \$1 billion, or \$100 million less than in fiscal 2014 but \$29 million more than the Obama administration request.

HR 4923 also includes a brace of riders from Rep. Blaine Luetkemeyer (R-Mo.) that directly affects the outdoors. Luetkemeyer's two riders would bar spending on a Missouri River Ecosystem Restoration Plan (MRERP) and a Missouri River Authorized Purposes Study (MRAPS). The Corps of Engineers is currently attempting to write analyses of the river to guide long-term management of the river.

"MRERP and MRAPS are studies that put taxpayers on the hook for millions of dollars at a time of growing deficits and out-of-control spending. The last thing we need to be doing is nickle and diming folks with unnecessary government spending like this," Luetkemeyer said.

Farming and levee groups fear the plans would lead to restrictions in favor of wildlife protection. The river has been straightened and shortened by more than 200 miles over the years. Luetkemeyer has persuaded Congress to block funding for the planning over the last three years - fiscal 2015 would be the fourth.

**Wetlands rule:** Republican and Democratic legislators alike have criticized the June 2 administration proposal that would expand the definition of navigable water requiring a permit to seasonal streams, wetlands near navigable waters and other waters.

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

The Bush administration relied on the court decision to limit permitting to navigable bodies. The Obama proposal would expand the application of the rule.

EPA and the Corps of Engineers in their proposal said that the rule should go beyond the existing regulation that

only requires a Section 404 Clean Water Act permit for navigable waters.

In addition to the riders 30 Republican senators introduced stand-alone legislation (S 2496) June 19 that would block the wetland rule. Said lead sponsor Sen. John Barrasso (R-Wyo.), "The Obama EPA is trying every scheme they can think of to take control of all water in the United States. This time, their unprecedented federal water grab is in the form of a rule that will hurt family farms, ranches, and small businesses by imposing outrageous permitting fees and compliance costs."

### **Obama and senators demand action on emergency fire fund**

President Obama himself jumped into the debate about financing emergency fires July 8 by proposing an immediate supplemental appropriation for fiscal year 2014 of \$615 million.

At the same time he repeated his request to Congress that it pass legislation that would transfer emergency fire-fighting appropriations to a category of disaster funding.

As for the \$615 million now he said, "This funding would provide for the necessary expenses for wildfire suppression and rehabilitation activities this fiscal year so we can fight fires without having to resort to damaging transfers from our wildfire treatment and protection activities."

On May 1 the Forest Service and Interior Department had said they anticipate spending \$470 million more on fire fighting this coming season than Congress has appropriated. That cost has now increased.

As for the permanent shift of emergency fire-fighting expenditures to disaster spending, Obama said such legislation "would allow the Federal Government to respond to severe, complex, and threatening fires or a severe fire season in the same way as we fund other natural disasters such as hurricanes or earthquakes. This approach would provide funding certainty

in future years for firefighting costs, free up resources to invest in areas that will promote long-term forest health and reduce fire risk, and maintain fiscal responsibility by addressing wildfire disaster needs through agreed-upon funding mechanisms."

Obama submitted the fire money request in the same package that included a \$3.7 billion request to address an immigration crisis in the Southwest. Thus far Republican legislators have responded negatively to the immigration request.

But Senate Finance Committee Chairman Ron Wyden (D-Ore.) said he would attempt to find the extra fire money for fiscal 2014 and to henceforth set aside emergency fire spending as disaster money.

"I'm very pleased that the President has asked for emergency funds to cover the true costs of fighting fires this year and has joined us in calling on Congress to fund the actual cost of fighting wildfires," Wyden said. "Sen. (Jeff) Merkley (D-Ore.) and I will be working with our colleagues to make sure that this additional fire money goes exactly where it's needed: to stop these conflagrations from devouring the landscape across the West."

Meanwhile, a broad bipartisan coalition of influential senators is putting pressure on Senate leadership to move legislation (S 1875) already on the table that would transfer emergency fire-fighting appropriations to a category of disaster funding.

That proposal would (1) guarantee money for fighting emergency fires and (2) head off a deduction of \$400 million from the Forest Service's fiscal year 2015 appropriations bill.

Fourteen senators wrote Senate Majority Leader Harry Reid (D-Nev.) and Senate Minority Leader Mitch McConnell (R-Ky.) late last month and urged them to take up S 1875, either by itself or as an amendment to some other legislation.

Said Sen. Mike Crapo (R-Idaho),

"Fire season is underway in the West, and the Senate must act immediately on this legislation. Pass it or pair it with other legislation. We could see yet another disaster year for catastrophic fires. This issue is certainly deserving of expedited action on the Senate floor."

Separately, Crapo and 12 cosponsors July 8 introduced S 1875 as an amendment to a sportsmen's access bill (S 2363) now on the Senate floor, SA 3464.

There is always a chance the Senate Appropriations Committee will insert S 1875 into a fiscal year 2015 money bill for the Interior Department and Related Agencies, including the Forest Service. But because of several other unrelated obstacles an Interior bill may well end up in some sort of continuing resolution based on fiscal 2014 spending.

The other obstacles before the appropriations bill are a need for \$400-mile plus in new money for the must-pass payments-in-lieu of taxes program, a possible rider to block a proposed Obama administration power plant regulation and a possible rider to block a proposed Obama administration wetlands rule.

**House not on board:** The House Republican leadership appears significantly less interested in moving the emergency fire bill introduced on its side (HR 3992) by Rep. Mike Simpson (R-Idaho).

In the most recent development the House Appropriations Committee approved a fiscal year 2015 money bill July 15 that does not anticipate passage of disaster-funding legislation for emergency fires. Instead the subcommittee, in a bill that will go nowhere in the Senate, offered straight-up appropriations for fire fighting. (See *related article page one.*)

The Republicans dealt the disaster fund proposal an initial setback April 10 by rejecting disaster funding in approving a fiscal 2015 Congressional budget (H Con Res 96). The Republicans argue that fire-fighting expenses should

be paid out of regular appropriations because Congress could lose control if they were paid with disaster funds.

Then on May 8 the House Appropriations Committee established a fiscal 2015 spending cap for an Interior Department and Related Agencies appropriations bill without excluding emergency fire spending.

The Natural Resources Conservation Service June 18 added fuel to the upcoming severe fire season, reporting what was widely believed: the snowpack in southern states in the West is well below normal.

The 14 senators signing the letter to Senate leadership included Wyden, Crapo, Merkley, and Sens. Jim Risch (R-Idaho), Mark Udall (D-Colo.), Michael Bennet (D-Colo.), Tammy Baldwin (D-Wis.), Martin Heinrich (D-N.M.), Tom Udall (D-N.M.), Tim Johnson (D-S.D.), Amy Klobuchar (D-Minn.), Debbie Stabenow (D-Mich.) and John Walsh (D-Mont.)

The senators' letter is available at many of the individual senators' websites, such as at Crapo's, <http://www.crapo.senate.gov/issues/environment/documents/ActiononS.1875.pdf>.

## Notes

### **DoI divides state LWCF money.**

The Interior Department July 8 used a campaign event backing full funding of the Land and Water Conservation Fund (LWCF) to announce the fiscal year 2014 allocation of state LWCF grants. Using a formula in the LWCF law the department will distribute \$43.38 million to all 50 states, the Territories and the District of Columbia. In a related development the Senate Appropriations Committee July 15 approved \$46 million for the state grants program for fiscal 2015, or \$2 million less than the fiscal 2014 appropriation. However, the law is scheduled to expire at the end of September 2015 and Secretary of Interior Sally Jewell July 7 launched a national campaign to persuade Congress to renew it. Thus Jewell traveled to Fort Worth, Texas, to announce the fiscal 2014 grants jointly with Fort Worth Mayor Betsy Price. Price cochairs the Mayors

for Parks, a coalition that supports LWCF, among other programs. The House committee approved a proportionally greater decrease in federal land acquisition for fiscal 2015 than in state grants, slashing \$138 million from the fiscal 2014 appropriation. The committee would spend just \$49 million for federal land acquisitions, compared to \$187 million in fiscal 2014. More information about LWCF is available here: <http://www.nps.gov/lwcf/>.

**NRPA poll tests outdoor use.** A new poll commissioned by the National Recreation and Parks Association (NRPA) says three out of ten adults don't go outdoors on a daily basis. When they do go outside, nearly half of adults (47 percent) stay less than 30 minutes. Further, more young adults under 35 spend 30 minutes or less outdoors (56 percent). NRPA contracted with IPSO Public Affairs to conduct the poll as part of NRPA's celebration of Park and Recreation Month. The theme for the celebration is OUT is IN. "Time outdoors is good for our health, happiness, and overall wellbeing yet these findings indicate adults are putting their priorities elsewhere," said Barbara Tulipane, president of NRPA. IPSO said its findings, based on a sample of 1,005 adults contacted in early May would have an error margin of +/- 3.1 points 19 times out of 20. Information about the poll is available at: [www.nrpa.org/july](http://www.nrpa.org/july).

**Big Cypress fracking alarm.** Sen. Bill Nelson (D-Fla.) said Florida and the federal government need to do everything they can to head off hydraulic fracturing (fracking) to produce oil and gas in the Big Cypress National Preserve. Nelson said on the Senate floor July 14 the substructure of southern Florida (honeycombed limestone) is far different from the substructure of states where fracking is now being used (hard rock). Nelson said the Dan A. Hughes Company wants to develop leases within Big Cypress. When Big Cypress became a unit of the National Park System in 1947 the subsurface mineral rights did not convey and remained in private hands. Now the holders of the mineral rights are beginning to consider fracking

to produce oil and gas. But Nelson said energy companies should be stopped because of the nature of the substructure. "It is this honeycomb being supported by freshwater that is the substructure of the State of Florida," he said. "So we don't have any idea what this fracking is going to do not only to the quality of the water but also to the very support structure for the State." If the state and the Park Service can't block development, then Congress should become involved, Nelson said.

#### **House may act on easement bill.**

The House was considering legislation at press time a mini-omnibus tax bill (HR 4719) that would make permanent tax incentives for conservation easements. The easement provision was introduced as stand-alone bill HR 2807. A counterpart, comprehensive Senate tax bill (S 2260) with the provision was pulled from the Senate floor May 15 in the face of dozens of amendments. S 2260 would extend dozens of popular tax breaks. The conservation easements provision is not the problem. It is widely supported by both political parties. For land trusts the bill and the provision are crucial. The Land Trust Alliance said that when the provision was in effect from 2006 through December 2013, farmers and other landowners protected as much as 1 million acres per year. The provision allowed landowners to deduct up to 50 percent of their adjusted gross income from taxes each year if they donated a conservation easement. The new provision would do the same for calendar years 2014 and 2015. House bill sponsor James Gerlach (R-Pa.) said that the legislation would raise "the maximum deduction a donor can take for donating a conservation easement from 30% of their adjusted gross income (AGI) in any year to 50%"; allow "qualified farmers and ranchers to deduct up to 100% of their AGI"; and increase "the number of years over which a donor can take deductions from 6 to 16 years."

#### **House opposing ocean policy.**

House Republicans are attacking President Obama's National Ocean Policy on two fronts. On July 10 the House approved a fiscal year 2015 Energy and

Water appropriations bill (HR 4923) that forbids spending any money to implement the policy. Then on July 15 the House Appropriations Committee approved a fiscal 2015 spending bill for the Interior Department and Related Agencies that would do the same thing. President Obama signed Executive Order 13547 on July 19, 2010, approving the policy. Republican critics such as Rep. Bradley Byrne (R-Ala.) said the policy would straightjacket commercial users of the ocean through zoning rules. "Numerous and varied industries will suffer as a result of this well-meaning but ill-conceived policy, including but not limited to agriculture, energy, fisheries, mining, and marine retail enterprises, to just name a few," he said. But Rep. Chellie Pingree (D-Me.) said those concerns are overblown. "The National Ocean Policy does not call for 'zoning' the ocean," she said. "Rather, it is a strategy to increase efficiency by bringing stakeholders together and giving citizens and businesses a voice in the decision-making process. This policy provides a way for the Federal Government to hear from and to coordinate activities with States, communities, and business owners."

#### **House member opposes Colo. park.**

Rep. Scott Tipton (R-Colo.) said July 7 that he opposes designation of the 20,000-acre Colorado National Monument as a national park. Tipton said local citizens and officials are concerned about unspecified regulatory restrictions that may be imposed by the Park Service if the monument were converted to a park. Tipton and Sen. Mark Udall (D-Colo.) solicited input about the possible conversion this spring. "This process has made it clear that not only is there no community consensus on the issue, but that there are many concerns regarding potential adverse impacts the change could impose on the local economy with regard to increased regulation and federal government scrutiny," Tipton said. Udall drafted a discussion bill that would have authorized the conversion. The Coalition of National Park Service Retirees vigorously supports national park designation, but objects to the Udall draft because the retirees allege it doesn't emphasize sufficiently preservation of the

natural resources of the site. "What is especially troubling about this draft legislation is that it contains no language concerning the essential reason for establishing a national park, i.e., preservation of its outstanding resources and values for the enjoyment of present and future generations, but rather contains many provisions that make achievement of that goal more difficult," said the retirees in a letter to Tipton and Udall. The letter was signed by the coalition's chair, Maureen Finnerty.

**House members oppose Vermillion monument.** Reps. Scott Tipton (R-Colo.) and Cory Gardner (R-Colo.) July 9 told Secretary of Interior Sally Jewell they oppose designation of the Vermillion Basin in western Colorado as a national monument. Conservationists have recommended monument status for the 77,000-acre area managed by the Bureau of Land Management. But the House members worry about limitations on commercial development in the natural gas rich area. "The designation of Vermillion Basin as a national monument would result in a lasting, if not permanent, adverse economic impacts on the communities of Northwestern Colorado, including their ability to sustain and create jobs," they wrote.

**IBLA: BLM may demolish Ore. house.** The Bureau of Land Management (BLM) may raze a much-appreciated Spruce Reach House on Spruce Reach Island on the Umpqua River in Oregon, the Interior Board of Land Appeals (IBLA) said July 3. The appellant had requested permission from BLM to restore the 5,000 square-foot house that BLM had acquired in 1994 as part of a viewing area on the Umpqua River. However, the Otak, Inc. design firm told BLM that the house had deteriorated and would cost almost \$1 million to restore. BLM concluded that the house would not be worth restoring. IBLA Administrative Judge T. Britt Price concurred. "In this case, we easily conclude that (appellant Ellen) Keeland's proposal to repair and restore the House was not feasible, and that BLM did indeed consider the alternative of private ownership by providing a 5-year period for such a party to come forward," she held.

## Conference Calendar

### JULY

**20-24. Sustainable Summits Conference** in Golden, Colo. Contact: American Alpine Club, 710 10th St. - Suite 100, Golden, CO 80401. (303) 384-0110. [http://americanalpineclub.org/p/sustainable\\_summits](http://americanalpineclub.org/p/sustainable_summits).

### AUGUST

**6-9. Outdoor Retailer Summer Market 2013.** Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

**9-13. Council of State Governments National Conference** in Anchorage, Alaska. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. <http://www.csg.org/>.

**14-18. National Speleological Society Convention** in Huntsville, Alabama. Contact: National Speleological Society, 2813 Cave Ave., Huntsville, AL 35810-4331. (256) 852-1300. <http://www.cave>

### SEPTEMBER

**2-5. National Association of State Park Directors Annual Meeting** in Omaha, Neb. Contact: Philip K. McKnelly, NASPD Executive Director, 8829 Woodyhill Road, Raleigh, NC 27613. (919) 676-8365. <http://www.nasped.org>.

**8-11. The National Center for Bicycling and Walking annual meeting in Pittsburgh.** Contact: National Center for Bicycling and Walking, 1612 K Street, N.W., Suite 802, Washington, DC 20006. (202) 223.3621. <http://www.bikewalk.org>.

**17-21. American Fisheries Society Annual Meeting** in Quebec City, Canada. Contact: American Fisheries Society, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199. (301) 897-8616. <http://www.fisheries.org>.

**18-20. The National Land Conservation Conference** in Providence, RI. Contact: Land Trust Alliance, 1331 H St., N.W., Suite 400, Washington, DC 20005-4711. (202) 638-4725. <http://www.lta.org>.