Senate leaders give LWCF huge boost in big energy bill

Senate Energy Committee leaders introduced legislation July 22 that would reauthorize the Land and Water Conservation Fund (LWCF) permanently.

The bill, from chairman Lisa Murkowski (R-Alaska) and ranking Democrat Maria Cantwell (D-Wash.), would also establish a $150 million per year Park Service maintenance account. Although that account would draw on the same source of money as LWCF—offshore oil and gas royalties, it would constitute a separate fund and would not draw revenues from LWCF itself.

In the legislation Murkowski and Cantwell would also specify minimum annual allocations within LWCF, such as at least 40 percent per year for federal land acquisition and at least 1.5 percent per year (or more than $10 million) for access to federal land for recreational purposes.

Finally, the bill (unnumbered at press time) would require expenditure of at least 40 percent of annual LWCF appropriations for a combination of state LWCF grants, Forest Legacy, endangered species grants and an American Battlefield Protection Program.

Unlike a stand-alone bill (S 890) Cantwell introduced earlier this year, the committee leaders’ new measure would not guarantee LWCF money. The program would still be subject to annual appropriations.

The Murkowski-Cantwell bill is not a stand-alone measure. Rather it is included in a massive, 357-page bill that would encourage energy development in the country. Murkowski and Cantwell have been working on the measure all year. The bill text and background...
Said Cantwell, “With this energy bill, we are taking another step forward. And we need to keep preserving and investing in our urban outdoor opportunities and recreation economy.”

Conservationists marching under the banner of a Land and Water Conservation Fund Coalition endorsed the bill. “This is a huge step forward at a critical time because the program’s current authorization will expire in less than 70 days,” said Alan Rowsome, senior director of government relations for lands at The Wilderness Society and Co-Chair of the LWCF coalition. “We are proud to endorse this agreement that would make America’s most important conservation program permanent.”

Although Republican senators and House members have betimes lauded the state side of LWCF, the big debate this year has been over federal land acquisition.

Now the National Association of State Park Directors is reminding Congress that the state grants side of LWCF also matters. That applies both to the writing of an appropriations bill for fiscal year 2016 and to the writing of an extension of the underlying law, which is due to expire September 30.

The association is circulating an op-ed piece that reviews the role the state side of the program has played over the years in building and improving community parks and recreation areas.

Lewis Ledford, executive director of the association, told us, “What sometimes gets lost in the talking points is the significant impact, and considerable demand, that LWCF has provided the state parks and the local parks departments. Stateside allocations have been administered very successfully to virtually every local community across the country.”

As drawn up 50 years ago the Land and Water Conservation Act called for 60 percent of the annual LWCF appropriation to be allocated to state grants. But the law has been amended over the years to entitle other programs to share the money, and Congress in recent years has lowered the state share to 12.5 percent of the total annual appropriation.

Ledford’s editorial says the State Assistance Program “has been the victim of two major changes to the LWCF Act to not only change the mandatory allocations, but also add new and loosely defined ‘related purposes’ as eligible uses for LWCF dollars. These ‘related purposes’ or new programs were added to the law in 1997. The additional accounts have effectively squeezed the State Allocation down to less than 13 percent of total LWCF appropriations since 1998.”

The editorial then says, “Restoring the state share consistent with the original intent of the legislation would mean millions more spent on close to home projects determined by state agencies, in a transparent process, who know best what local constituents want and need in terms of outdoor recreation. It is estimated that dedicating 60 percent of funds to the state assistance program would more than triple the funds available to local communities.”

Throughout LWCF’s history state and local officials have partnered in support of the program with national conservation groups that are primarily concerned with federal land acquisitions. However, under the surface there has always existed tension between the two sides as federal acquisitions have received the lion’s share of appropriations.

The Senate Appropriations Committee followed that pattern June 18 in approving its version of a fiscal year 2016 appropriations bill (S 1645). It would appropriate $157.5 million for federal land acquisition and $55 million for state grants.

A counterpart House bill (S 2822) that is now stalled on the House floor would appropriate $91 million for the federal side and $48 million for state
grants. The fiscal 2015 appropriation for state grants is $48 million.

Meanwhile, LWCF supporters may be facing a bigger fight than just the fiscal 2016 appropriation — the renewal of the underlying law, as the Murkowski-Cantwell bill would do. The LWCF Act is scheduled to expire at the end of September. Supporters of the program from both political parties are pushing their leaders to act on renewal legislation.

For instance, Rep. Ryan Costello (R-Pa.) took to the floor July 8 to ask the House to pass legislation (HR 1814) that he cosponsored that would make the program permanent with an annual authorization of up to $900 million, similar to the Murkowski-Cantwell bill. He pointed out benefits to Pennsylvania both from the federal and state sides of LWCF.

On the federal side he said, “My home State of Pennsylvania has received approximately $295 million in the past five decades from the Land and Water Conservation Fund. It has protected places with national significance, such as Gettysburg National Military Park, Valley Forge National Historical Park, and John Heinz Wildlife Refuge.”

On the state side he said, “In addition, in my congressional district, we can thank the Land and Water Conservation Fund for helping fund the building of the Birdsboro Waters Forest Legacy project, protecting critical woodlands at the East Coventry Wineberry Estates, expanding Shaw’s Bridge in East Bradford Township, and enhancing Pottstown Borough Memorial Park with a new dog park, pavilions, restrooms, ball fields, and walking trails.”

On LWCF’s behalf in the Senate, 13 Republicans voted for an extension of LWCF January 29 when Sen. Richard Burr (R-N.C.) offered such an amendment to a Keystone Pipeline System bill. The amendment was defeated by a 59-to-49 vote, with 60 votes needed to pass.

Five Republican senators led by Burr have sponsored stand-alone legislation (S 338) this year that would make LWCF permanent at $900 million per year. Six Democrats cosponsored the Burr bill.

Six Democratic senators led by Cantwell introduced a separate bill (S 890) March 27 that would permanently reauthorize LWCF, with guaranteed funding. The Burr bill would not guarantee money for LWCF; Cantwell would.

McClintock lays into NPS for not accommodating visitors

Federal Lands Subcommittee Chairman Tom McClintock (R-Calif.) July 23 used a hearing on the next century of the National Park System to excoriate the Park Service for discouraging the public from visiting the parks.

“This subcommittee is especially concerned about policies that are actively removing traditional tourist amenities,” he said. “The directors of Grand Canyon National Park and other parks are now banning the sale of bottled water.”

And he complained of a new Yosemite National Park management plan that reduces traditional tourist uses there, such as camping.

McClintock continued, “I can’t think of a better way to approach the next century in our National Park System than to restore the vision of its founders. The national parks should be open to the public for all recreation pursuits — hiking, biking fishing, snowmobiling, horseback riding, skiing, rafting, RVing, camping.”

McClintock, who some hoped would use the hearing to promote legislation to assess initiatives to increase park funding, faulted an overemphasis by NPS on land acquisition over maintenance.

He said a more likely reason for a decrease in visitation to the parks “lies in Park Service priorities that have produced a maintenance backlog on existing national parkland while funds are diverted to acquiring still more land.”
The Californian based his attacks on NPS on what he described as an illusionary increase in visitation caused by new memorials in Washington, D.C. In real life, he said, lodging is down, camping is down, youth visitation is down and RV camping is down, despite an increase in the number of RVs in the country.

If McClintock does develop Park Service Centennial legislation, he might do so by adding a Centennial Challenge provision to legislation to renew FLREA (the Federal Land Recreation Enhancement Act).

And he might be asked to use the bill to establish a big new fund for federal land management agencies from concessioner profits and other revenues generated by national parks and other federal lands. That fund might be modeled on the multi-billion dollar Department of Defense Nonappropriated Fund Instrumentality (NAFI) program.

Derrick Crandall, counselor of the National Park Hospitality Association, told the subcommittee, “Finally, we urge this committee to add new authorities addressed in this testimony and in our report for the Bipartisan Policy Center program in reauthorization of the very appropriately named Federal Lands Recreation Enhancement Act. While now largely focusing on fee authority, this measure can and should be expanded to include provisions for the Centennial Challenge gift-matching program and more.”

At the Federal Lands subcommittee hearing, titled New and Innovative Ideas for the Next Century of Our National Parks, ranking Democrat Niki Tsongas (D-Mass.) said that outside money would be nice but that the Congress of the United States has the ultimate responsibility to appropriate substantial funds for the parks.

“For example, the Find Your Park campaign is being funded entirely through corporate partners who see the campaign as a way to simultaneously

“This trend is completely unacceptable, if we want our children and grandchildren to have the same opportunities to visit and enjoy some of our nation’s most iconic public lands. However, this must be thoughtfully done in a way that supplements but does not supplant federal funding through the annual appropriations process.”

On the same day the House Oversight subcommittee on Interior held a companion hearing on Park Service concessioners that emphasized partnerships between the parks and for-profit and nonprofit operations. Rep. Cynthia Lummis (R-Wyo.) chaired the hearing.

Again, one goal of the Lummis subcommittee hearing is to ready the parks for 2016 and the next 100 years.

Separately, both the House and Senate Appropriations Committees have included an extension of FLREA through September 2017 in their fiscal 2016 Interior appropriations bill (HR 2822, S 1645). That does not preclude the McClintock subcommittee from rewriting FLREA. Indeed, it would give the subcommittee time needed to write a new bill.

At the hearings representatives of the National Parks Foundation, the National Park Hospitality Association, conservationists and state and local tourism pitched for new revenue-making strategies to boost the national parks.

For instance John Nau, president of Silver Eagle Distributors, on behalf of the National Park Foundation, told the McClintock subcommittee, “This new paradigm must include finding new ways to incentivize foundations, non-profit organizations, individual donors, and corporate partners to make even greater investments in our parks going forward. Activities are already underway that prove the viability of this new, innovative approach of partnering with companies and corporations.”
benefit the National Park System and the financial interests of their companies,” he said.

Park concessioners made a pitch for major changes in concessions law, such as an extension of contracts from an existing standard of 10 years to as long as 40 years. NPS is currently having difficulty finding a concessioner to bid on a lead Grand Canyon National Park contract because, concessioners say, franchise fees and leasehold surrender interests are excessive.

Hospitality association counselor Crandall noted that the nation’s ski resorts – most of which are on public land – obtain contracts for 40 year or more. “Similar-length terms for park concessions contracts would produce the needed investment in our lodges and other structures and open the door to another tool: historic investment tax credits,” he said.

Like Rep. Tsongas, Craig Obey, senior vice president for government affairs for the National Parks Conservation Association, recommended that Congress step up. “The continuing budget standoff is leading to death-by-a-thousand-cuts for our national parks. This must be resolved if America’s nationally-significant natural, historic and cultural places are to recover and serve the public for the next hundred years and beyond,” he said.

After itemizing reductions in park operations from federal budget sequestrations, he said, “Without a significant deal on the budget, it is difficult to see how either the everyday operational or long-term backlog-related needs of the parks get sufficiently addressed.”

The twin hearings address in large part the upcoming Park Service Centennial in 2016. The new House activity matters because heretofore the Senate has taken the lead in at least discussing a major Congressional role for the Centennial.

For instance, on July 22 Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) and ranking Democrat Maria Cantwell (D-Ore.) introduced legislation that would establish a $150 million per year Park Service maintenance fund from offshore oil and gas revenues. The money would be subject to annual appropriations.

Separately, Cantwell and Rob Portman (R-Ohio) had been writing legislation to authorize a multi-year Centennial Challenge program. To lay the groundwork they persuaded the Senate this spring to recommend a matching grant program in an amendment to a fiscal year 2016 Congressional budget.

Specifically, the Cantwell-Portman amendment directs the Senate to make room in the Congressional budget for a Centennial Challenge program that would match private contributions with federal contributions. The amendment is largely symbolic because line committees would have to write and move Centennial legislation.

Now the House is becoming involved. And, it should be noted, despite the two July 23 hearings, House and Senate Democrats have blasted Congressional appropriators for insufficient fiscal year 2016 spending for the Centennial.

The House has been considering a fiscal 2016 spending bill for the Interior Department and Related Agencies (HR 2822) that would short the Centennial by 84 percent, by one estimate. And by the administration’s estimate would delay 70 percent of construction maintenance projects.

Speaking on the House floor, Rep. Betty McCollum (D-Minn.), ranking Democrat on the subcommittee on Interior Appropriations that wrote HR 2822, said that “less than 16 percent of the funds requested for the National Park Service’s centennial are provided (by HR 2822).”

All told, House appropriators said their bill approved an extra $52 million for the Centennial within the Park Service operations line item above the fiscal 2015 appropriation. HR 2822 includes an additional $20 million for a Centennial matching grant program.
However, the Office of Management and Budget in a Statement of Administration Policy on HR 2822 said the House increases fall far short of the $326 million increase the administration requested for operations and the $50 million it requested for a Centennial Challenge program.

The Senate Appropriations Committee approved its version of a fiscal 2016 appropriations bill (S 1645) June 18 with an extra $61 million for the Park Service Centennial, with $10 million for the Centennial Challenge.

How NAFI works: The Department of Defense authorizes military garrisons to collect profits from post exchanges and other commercial operations in their midst and to transfer the money into a morale welfare fund called NAFI to operate family facilities and recreation facilities on bases. The NAFI money is separate from appropriations and is held apart from appropriated money; however, NAFI money and appropriations can support a common program.

Centennial campaign background: As part of the Park Service's 2016 Centennial campaign it is understood that the agency has submitted to the White House a draft Centennial bill that would include an endowment provision.

The endowment would begin with a number of levies from existing programs, such as interest on unspent entrance and recreation fees, interest on concessioner fees and revenues from increased entrance fees.

The endowment would be separate from a matching grant program called a Centennial Challenge to address a maintenance backlog that is also a key element in the Centennial campaign.

The Cantwell-Portman bill has been imminent for months, but some parks advocates still hold out hope a bill will emerge before Congress recesses in early August.

The endowment is a horse of a different color. It would be used to supplement operations. And that’s where the problems begin because Republican Congressional leaders would by definition be loathe to support a new operations program when the parks are facing a $12 billion maintenance backlog.

Federal agency endowments are rare. Perhaps the most notable one supports the Smithsonian Institution. It has grown to more than $1 billion and allocates more than $60 million per year to supplement appropriations and other funds.

Senate digs into six-year highway bill, with money

Senate leaders at press time were making an all-out effort to move a six-year surface transportation bill (HR 22) that would retain a base park and rec program known as the Transportation Alternative Program (TAP).

The bill cleared an important procedural hurdle July 22, clearing the way for debate to begin.

Through a mix of financing schemes HR 22 would be fully funded through the next three fiscal years.

Senate Majority Leader Mitch McConnell (R-Ky.) was pushing his troops to finish HR 22 this weekend. (HR 22 is technically the Hire More Heroes Act, which the House approved January 6. The Senate is using it as a vehicle to move a surface transportation bill.)

However, Senate Minority Leader Harry Reid (D-Nev.) said that Democratic members may attempt to block the bill. Reid complained that his side had not seen the massive legislation.

There was also significant criticism of the funding mechanism in HR 22; for instance, Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) objected to selling off $9 billion worth of oil from the Strategic Petroleum Reserve. That reserve provides a back-up source of oil for the country in the event of a national energy crisis.

If the Senate passes HR 22, the measure then would have to gain House
approval. There are no guarantees there either because the House has heretofore backed a short-term fix through the end of the calendar year.

That is, the House July 15 approved a five-month extension of the existing law Moving Ahead for Progress in the 21st Century Act (MAP-21), through December. During that time Congress would presumably write a multi-year surface transportation bill. Congress is under the gun because an interim surface transportation law is scheduled to expire July 31.

But Senate Republican leaders want Congress to approve a multi-year surface transportation bill now and get the issue off the table before the 2016 election wars begin in earnest. As if those wars haven’t already begun.

To that end the Senate Environment and Public Works Committee (EPW) June 24 developed the bones for a six-year bill called the Developing a Reliable and Innovative Vision for the Economy Act, or DRIVE Act. That bill was then fleshed out with legislative contributions from the Senate Finance Committee (the money committee), the Senate Commerce Committee and the Senate Homeland Security Committee.

On July 21 McConnell and the four Senate committees announced a bipartisan agreement on the 1,050-page DRIVE Act, complete with funding.

One relevant contentious issue in the Senate bill sprung up this week involving the protection of historic sites. As drafted HR 22 would lessen consultation requirements with federal and state agencies over the possible impact of highway projects on historic properties. Instead of obtaining detailed approvals of agencies, the new bill would simply require consultation.

The National Trust for Historic Preservation alerted its members July 21, telling them, “Now, the Senate is poised to consider a transportation reauthorization bill that includes a major attack on the section 4(f) requirement to minimize harm to historic sites, leaving our historic resources vulnerable to ill-advised and poorly planned transportation projects.”

Caught in the middle of the House and Senate negotiations over the larger bill are recreation programs. On the upside HR 22 would retain a base park and rec program known as the Transportation Alternative Program (TAP). In total for TAP the bill would allocate $850 million per year for the next six years.

For the other park and rec half of traditional surface transportation laws – federal lands roads – the Senate bill would allocate $560 million for fiscal year 2016, broken down as follows: $305 million for federal land roads, with $240 million of that set aside for the National Park Service and $30 million for the Fish and Wildlife Service (FWS). A federal lands access program would receive an additional $255 million for major projects.

By fiscal 2021 the DRIVE Act would increase the ante for Federal Lands Roads to $330 million, with the same set-asides for NPS and FWS, and $280 million for access.

To obtain money for DRIVE the Obama administration, House Ways and Means Committee Chairman Paul Ryan

**Numerous House approps bill riders may delay passage**

An Interior and Related Agencies spending bill has become so freighted with controversial amendments in the House that leaders are being urged to defer further action until a grand budget agreement is struck. If such an agreement is politically feasible.

The most prominent controversy facing the bill (HR 2822) is over a proposed amendment that would authorize the flying of the Confederate flag over cemeteries that are part of the National Park System.

But the measure is entwined with other, major policy disputes as well. Among them are amendments to block the
designation of national monuments, to bar national parks from banning bottled water and to encourage the sale of federal lands.

The Wilderness Society, which is not exactly an unbiased player, says it’s time to forget about the version of HR 2822 that is stuck on the floor and wait until a budget agreement is struck.

"We urge Congress to bring the Interior bill back to the floor once they have agreed to a broad budget deal that restores needed resources to our environment, and removed harmful policy provisions that will keep this bill from ever becoming law," the society said shortly after House leaders pulled the bill from the House floor July 9.

The Office of Management and Budget (OMB) said virtually the same thing, that the budget allocation to HR 2822 (and other domestic spending bills) is too low. "The President’s senior advisors would recommend that he veto H.R. 2822 and any other legislation that implements the current Republican budget framework, which blocks the investments needed for our economy to compete in the future," said OMB.

As we reported in the last issue of FPR, Speaker of the House John Boehner (R-Ohio) pulled HR 2822 from the House floor July 9 just before a final vote because of the Confederate flag amendment.

The amendment, introduced by Rep. Ken Calvert (R-Calif.), would reverse a provision in HR 2282 that would forbid the flying of the Confederate flag over cemeteries managed by NPS.

Boehner was unable to muster enough votes to pass the bill with the amendment authorizing display of Confederate flags in national parks because of moderate Republican and Democratic opposition. Nor could he muster sufficient votes to pass the bill without the flag amendment because of southern Republican opposition.

The spending cap: The House Appropriations Committee in May assigned a spending cap to the Interior and Related Agencies subcommittee bill that is $246 million less than a fiscal 2015 ceiling of $30.416 billion. The committee set a cap of $30.170 billion for fiscal 2016. Still, that is marginally above the spending cap of $30.010 billion set by the Senate Appropriations Committee May 21.

Democrat Rep. Betty McCollum (R-Minn.), ranking minority member on the House subcommittee on Interior Appropriations, attacked the majority’s caps. “This bill once again forces agencies to do more with less, an unrealistic and increasingly impossible task,” she said. “Clearly the spending caps have put a stranglehold on the appropriations process and it is dangerously eroding our responsibilities to the American people.” She said the bill contains $2 billion less than a 2010 appropriations bill.

Congressional Democrats and the White House have made no secret of their plan to fight the spending caps for all domestic appropriations bills on any and all occasions. They will call on their Republican colleagues to replace or revoke a sequestration law that sets broad domestic and military spending ceilings. But Congressional Republicans are just as determined to stick with sequestration.

In the Senate Democratic opposition to the measure is so solid the measure may not make it to the floor. Thus, senators from both parties are already talking about the possibility of a significant delay in addressing the bill before the start of fiscal year 2016 on October 1.

Complicating the House bill is its approach to funding the payment-in-lieu of taxes (PILT) program and emergency fire fighting. HR 2822 would pay for both programs from appropriations in the bill.

Heretofore Congress has usually paid for PILT with money outside the appropriations bill, leaving room for assistance for other programs.

On the fire front both the House and Senate are moving to shift a portion
of emergency fire fighting money out of appropriations bills and into disaster spending. In approving a counterpart Interior spending bill (S 1645) to the House measure the Senate Appropriations Committee June 18 approved such legislation.

Although HR 2822 doesn’t contain similar legislative language, the House did approve stand-alone legislation (HR 2647) July 9 that would authorize the transfer of some emergency fire-fighting costs out of a regular appropriations bill and into disaster spending.

Here are the controversial park and rec amendments the House added two weeks ago to the already rider-ridden HR 2822:

**Confederate flag:** The Calvert amendment would undo an amendment that Democrats had added to HR 2811 on the subject July 7. The amendment from Rep. Jared Huffman (D-Calif.) would forbid the display of Confederate flags at federal cemeteries. The Huffman amendment was approved without a formal vote. *(See related article page 11.)*

The bill contains two other Confederate flag amendments that the Calvert amendment would not address. One from Huffman would bar a Park Service concessioner or a nonprofit within a park from selling the Confederate flag for non-educational purposes. That matches a Park Service policy.

A third amendment from Rep. Hakeem Jeffries (D-N.Y.) would forbid the purchase or display of the Confederate flag except to provide historic context.

**Glass bottles:** An amendment from Rep. Keith Rothfus (R-Pa.) would not let National Park System units ban water bottles within the parks. *(See related article page 13.)*

The amendment addresses a 2010 controversy that erupted when Grand Canyon National Park attempted to ban water bottles.

On Dec. 14, 2011, the Park Service issued a new water bottle policy, not just for Grand Canyon but also for all units. The policy allows superintendents to ban water bottles if they first obtain approval from the applicable regional director. The superintendents must first submit a request in writing. The Rothfus amendment, approved July 7 by voice vote, would not let the Park Service implement such bans.

**National monuments:** An amendment from Rep. Crescent Hardy (R-Nev.) would block the designation of national monuments in 17 counties in the West where such Presidential actions are considered probable.

Hardy is most concerned about the recent designation of a 700,000-acre national monument on Bureau of Land Management Land property in the Garden and Coal Valleys of southern Nevada. *(See following article.)*

But Hardy, who represents the area, opposes the designation and is attempting to block it on the House floor. He persuaded the House July 8 to approve an amendment to a fiscal year 2016 appropriations bill (HR 2822) that would forbid the designation. The vote was 222-to-206.

The Hardy amendment would also block anticipated national monument designations in 17 counties in Arizona, California, Colorado, New Mexico, Nevada, Oregon and Utah. However, the Hardy amendment came too late in the game to block the Basin and Range designation because it is prospective – it would forbid spending money to make a national monument proclamation in fiscal year 2016.

**Old riders:** Already in the House bill, coming out of the House Appropriations Committee, were policy amendments that would extend the Federal Lands Recreation Enhancements Act (FLREA) for one year; forbid EPA from completing a proposed rule that would reduce carbon emissions from existing power plants; forbid EPA from implementing a May 27 rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act; forbid any agency
from attempting to transfer water rights to the federal government on renewal of a permit; and block implementation of a National Ocean Policy proposed by the Obama administration.

On the money front HR 2822 would sharply reduce funding for the Land and Water Conservation Fund, allocate token money for the Park Service Centennial and, at best, maintain existing spending levels before inflation for most land management agencies.

For Park Service operations the House bill includes a $52 million increase, primarily for the agency’s Centennial in 2016. The House would appropriate $2.328 billion for operations, compared to a fiscal 2015 appropriation of $2.276 billion.

The Senate Appropriations Committee June 18 approved a counterpart bill (S 1645) with $5 million more for NPS operations than the House, $2.323 billion.

The Senate committee said it approved $110 million in total for the Park Service Centennial; however, the two panels did not provide analogous breakdowns to allow direct comparisons.

In threatening a veto OMB first complained about a total funding level that is $2.2 billion below the administration request. “The bill drastically underfunds core Department of the Interior programs as well as the Environmental Protection Agency’s operating budget, which supports nationwide protection of human health and our vital air, water and land resources,” said OMB.

As for policy amendments/slash riders OMB said, “Further, the bill includes numerous highly problematic ideological provisions that have no place in funding legislation.”

**Errata:** In a bulletin FPR sent out July 20 we erred in saying Rep. Calvert’s Confederate flag amendment would reverse the Park Service ban on the sale of the flag in parks stores. It would not. The amendment would just reverse a provision in the appropriations bill banning the flying of the Confederate flag in cemeteries overseen by NPS.

**President designates three monuments, one controversial**

President Obama designated three major national monuments July 9 – a 704,000-acre Basin and Range National Monument in southern Nevada, a 330,780-acre Berryessa Snow Mountain National Monument in northern California, and a five-acre Waco Mammoth National Monument in Waco, Texas.

The Basin and Range monument on mostly Bureau of Land Management (BLM) land is the most controversial. Secretary of Interior Sally Jewell made the case for it. “This area is a spectacular expanse of rugged public lands that tell the proud story of the West, from the ancient rock art of our First Americans to the early homesteaders looking for opportunity on the open range,” she said.

But the Congressman who represents the area, Rep. Crescent Hardy (R-Nev.), opposes the designation and is attempting to block it on the House floor. He persuaded the House July 8 to approve an amendment to a fiscal year 2016 appropriations bill (HR 2822) that would forbid the designation. The vote was 222-to-206.

The Hardy amendment would also block anticipated national monument designations in 17 counties in Arizona, California, Colorado, New Mexico, Nevada, Oregon and Utah. However, the Hardy amendment came too late in the game to block the Basin and Range designation because it is prospective – it would forbid spending money to make a national monument proclamation in fiscal year 2016.

The Nevada designation is believed in some circles to pay homage to Senate Minority Leader Harry Reid (D-Nev.) He said, “I appreciate more than I can put into words what he has done today to preserve the beauty of the Nevada desert for our grandchildren, their grandchildren, and generations to come.”
But Hardy disagreed in a July 10 House floor statement. “Madam Speaker, at 2 p.m. this afternoon, you won’t see a debate on the floor of the House, the people’s House, on the Basin and Range Monument,” he said. “There will be no vote for Nevada’s elected representatives, but there will be a photo op to capture the exchange of political favor for one Nevadan (Sen. Reid). It will be a scene demonstrating that having friends in high places is more important than popular will of the people.”

Reid predicted that many more monument designations were coming around the country. “(President Obama) has used his authority under the Antiquities Act to do great things all over the country and he’s not done yet,” he said. “There are vast landscapes and historic treasures from Idaho to California to Oregon that have languished in Congress.”

Of the Berryessa monument on both Forest Service and BLM lands Secretary of Agriculture Tom Vilsack said, “The Berryessa Snow Mountain National Monument strikes a unique balance between Northern California’s urban environments of Sacramento and the San Francisco Bay Area and the wild, remote landscapes that surround the farms, ranches, orchards, and vineyards that nourish our nation.”

Of the Waco site that will be managed by the Park Service Jewell said, “Our National Parks inspire and teach us about our nation’s natural history - in this case, about the prehistoric animals that walked our Earth tens of thousands of years ago. The Waco Mammoth National Monument will share the wonder of these incredible mammoths with visitors from around the world and help introduce a new generation to the thrill of scientific discovery that only a special site like this can demonstrate first-hand.”

House Natural Resources Committee Chairman Rob Bishop (R-Utah) objected to all three monuments. “President Obama has shown complete disdain for Congress and the people of Nevada, California, and Texas,” he said. “This surreptitious land grab reveals that the Obama Administration will stop at nothing to lock up more and more land, with the stroke of a pen. I condemn this shameful power move which makes states and citizens fearful that the federal government can invade at any time to seize more lands like bandits in the night.”

But ranking committee Democrat Raúl M. Grijalva (D-Ariz.) objected to Bishop’s objection, particularly to a Bishop statement about Native American artifacts at Basin and Range. Greenwire quoted Bishop as saying, “Ah, bull crap. That’s not an antiquity.”

To which Grijalva said, “The natural and cultural resources protected by these designations are, in fact, antiques; species and trees and rocks and cave paintings and beautiful landscapes are all quite old. We want them to remain antique, House Republicans want them to become extinct.”

Conservationists who have pushed the Obama administration since its inception to use the Antiquities Act of 1906 to designate national monuments praised the President. Said Collin O’Mara, president of the National Wildlife Federation after the three-monument designation, “Today’s designations demonstrate the Antiquities Act is as vital as ever in preserving some of our nation’s most important historic and natural treasures - and it’s crucial that we keep the act intact and in place.”

The powered recreation community as represented by the BlueRibbon Coalition endorsed the administration action on a Berryessa monument. The coalition almost never agrees with the administration.

But, said Don Amador, western rep for the coalition, “I believe this monument designation will improve economic opportunities for the local economies; increase coordination between federal agencies; provide well-managed recreation opportunities including casual and permitted off road vehicle activity on designated roads, trails
and areas; safeguard the area’s natural beauty, sensitive areas, wildlife and rare plants; and ensure the continued use and enjoyment of these lands for future generations.”

On April 17, 2012, the House approved legislation that would require state approval of a national monument designation before the designation could become valid. The vote was 223-to-198. However, the Senate didn’t act on the legislation.

Numerous bills to limit the President’s authority to designate national monuments under the Antiquities Act have been introduced in this Congress. Lead bills include S 437 from Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) and HR 330 from Rep. Don Young. Both would require Congressional approval of any monument designation.

Confederate flag row puts a crimp in DoI money bill

The national row over a proposed House amendment to allow parks to display and sell the Confederate flag is a bit more complicated than often described.

The proposal from Rep. Ken Calvert (R-Calif.) is not aimed at a Park Service policy that directs national park bookstores and gift shops to stop selling the Confederate Battle Flag. NPS acted in the wake of the shooting of nine church members at Emanuel African Methodist Episcopal Church in Charleston, S.C.

The Calvert amendment is aimed at a separate provision already approved by the House as part of a fiscal year 2016 appropriations bill (HR 2822) that would forbid the display of Confederate flags at federal cemeteries. That provision came from an amendment offered by Rep. Jared Huffman (D-Calif.)

The resultant row forced Speaker of the House John Boehner (R-Ohio) to pull the Interior and Related Agencies spending bill from the House floor. He said he would convene a working group to address the Confederate flag issue.

Boehner was unable to muster enough votes to pass the bill with the amendment authorizing display of Confederate flags in national parks because of moderate Republican and Democratic opposition. Nor could he muster sufficient votes to pass the bill without the flag amendment because of southern Republican opposition.

When Calvert offered his amendment, House Democrats had a field day. Said Rep. Betty McCollum (R-Minn.), “I never thought that the U.S. House of Representatives would join those who would want to see this flag flown by passing an amendment to ensure the continuing flying of the Confederate flag. I strongly urge every Member to stand with the citizens of all races and to remove this symbol of hatred from our National Park Service.”

Calvert himself said the intent of his amendment was not to reverse the Park Service policy but to reverse the Huffman amendment that addressed flying the Confederate flag over federal cemeteries.

“I wholeheartedly support the Park Service’s prohibitions regarding the Confederate flag and the amendment did nothing to change these prohibitions,” he said.

Instead his amendment was just intended to allow the Confederate flag to fly over federal cemeteries.

“Looking back, I regret not conferring with my colleagues on the other side of the aisle, especially my Ranking Member Betty McCollum, prior to offering the Leadership’s amendment and fully explaining its intent given the strong feelings Members of the House have regarding this important and sensitive issue,” he said. Calvert chairs the House subcommittee on Interior and Related Agencies and McCollum is the ranking Democrat.

In its policy memorandum of June 24 NPS directed national park bookstores and gift shops to stop selling the Confederate Battle Flag in the wake
Eisenhower proposal clears last non-legislative hurdle

Despite the best efforts of House and Senate appropriators a memorial to former President Dwight D. Eisenhower in Washington, D.C., appears to be on track.

The National Capital Planning Commission July 9 gave its final approval to the long-disputed memorial, perhaps opening the way for construction to begin. The U.S. Commission of Fine Arts gave its final approval June 18.

The planning commission in its recommendation said its action: “Confirms that the final memorial design satisfies NCPC’s adopted site selection design principles and that the Commission’s action to approve the final plans will not have a significant impact on the human environment.”

The Dwight D. Eisenhower Memorial Commission, which includes 12 U.S. senators and House members, praised the planning group. Said Sen. Pat Roberts (R-Kan.), chair of the commission, “This is an important day for those of us who are committed to memorializing Dwight D. Eisenhower – a brilliant military strategist, a visionary world leader, a man who saved Western democracy, and a proud Kansan. The approval granted today is the last of the federal reviews required before construction can begin.”

Vice Chairman Rep. Mike Thompson (D-Calif.) said let’s move on. “It’s time to put aside the squabbling and attacks and move forwards to give to the American people, to Ike’s remaining troops, and to the world, a great memorial to a great man,” he said.

That is not a universal sentiment. A spokesman for Right by Ike: Project for a New Eisenhower Memorial, Sam Roche, said in a letter to the New York Times that the design is flawed, too expensive and was conceived in secret.

“President Dwight D. Eisenhower’s memorial has become so contentious in part because it was not designed through the usual open public competition but rather through a more restrictive process that sought a famous designer before a fitting design,” said Roche.

The problem is the ‘squabbling,’ as cited by Rep. Thompson, is coming from Eisenhower’s family, the House Appropriations Committee and the Senate Appropriations Committee. The committees have responsibility for appropriating money (1) to keep the commission going and (2) to build the memorial itself.

The House Appropriations Committee approved no money for the commission and no money for construction June 16 in passing a fiscal year 2016 Interior and Related Agencies appropriations bill (HR 2822). In addition the bill calls for a whole new design and a whole new staff for the Eisenhower commission. That bill is currently stalled on the House floor.

The Senate Appropriations Committee June 18 approved its version of an Interior spending bill (S 1645), with $1 million for the commission and no money for construction. But the senators did not call for a complete reset.

A report accompanying the House spending bill written by the chairman of the subcommittee on Interior and Related Agencies, Rep. Ken Calvert (R-Calif.), called for a new commission.

“Such a reset should include 1) an open competition and selection and approval of a new design utilizing the existing designated memorial site that includes the participation of the Eisenhower family and other partners in the planning and approval process and, 2) the appointment of new Commission staff,” said the report.

On the docket is a design for the proposed memorial from noted architect
Frank Gehry. Some members of the Eisenhower family, led by granddaughter Susan Eisenhower, object to elements of the Gehry proposal, such as statues of the former President as a young man, columns and tapestries.

Gehry has trimmed the size and look of the proposal since he first introduced it in 2010.

The Park Service, which would oversee the construction and management of the memorial, on May 8, 2015, determined the Gehry plan would have no adverse impacts on cultural resources, natural resources, transportation and pedestrians. The site is on the National Mall adjacent to the National Air and Space Museum.

In fiscal year 2015 Congress appropriated $1 million for the Eisenhower committee and for fiscal 2016 the Obama administration requested $2 million.

The administration also requested $68.2 million for construction of the facility in fiscal 2016. Congress has previously appropriated $46.4 million for the project.

Some private construction money has been donated but soliciting more may be difficult because of the opposition of the Eisenhower family. However, the government of Taiwan last week donated $1 million toward construction.

### NPS ban on bottled water sales an issue in money bill

If and when a fiscal year 2016 Interior spending bill returns to the House floor, it will contain a somewhat contentious amendment that takes on a Park Service policy that allow units to ban the sale of bottled water.

At the behest of Rep. Keith Rothfus (R-Pa.), the House approved the amendment to block implementation of a Dec. 14, 2011, Park Service policy that allows individual parks to ban the sale of bottled water. Some 19 parks including Grand Canyon have imposed the ban. The House approved the amendment July 7 without a formal vote.

Rothfus painted the ban as a health issue. “In blocking the sale of bottled water at our parks, we are depriving millions of Americans access to a healthy and necessary beverage that park visitors rely on,” he said. “This is especially true in the hot summer months. Families who don’t own expensive camping equipment and aren’t experienced hikers and climbers will be surprised to find out that they can’t buy their child a bottle of water at one of our national parks.”

House Democrats acknowledged a concern with the Park Service ban but opposed an outright reversal of the policy. Rep. Betty McCollum (D-Minn.) said she wanted to work with Rothfus to insure park visitors are well hydrated.

But, she said, the ban on the sales doesn’t prevent visitors from bringing water into the parks with them. “It is important to note that in the National Park System units, including these 19, visitors are still free to bring water in with them and use water in disposable plastic bottles. They are not banned from bringing in their own water,” she said.

Second, McCollum opposed throwing the baby out with the bath water. “I would very much like to work with the gentleman and the chairman to see if there are any refinements or if there is anything that we need to know more about what the National Park system’s policy on plastic water bottles is,” she said. “But I do not support an outright prohibition on the National Park Service to be able to carry out a policy that encourages the reuse and the reduction of plastic water bottles in our parks and in our Nation.”

On Dec. 14, 2011, the Park Service issued the new water bottle policy, not just for Grand Canyon but also for all units. The policy allows superintendents to ban water bottles if they first obtain approval from the applicable regional director. The superintendents must first submit a request in writing. The Rothfus amendment, approved July 7 by voice
vote, would not let the Park Service implement such bans.

The bottled water industry is all in on the Rothfus amendment. Like Rep. Rothfus, Chris Hogan, vice president of communications for the International Bottled Water Association, described the Park Service policy as a health issue.

“We also know that when bottled water is not available in a vending machine, people choose other less-healthy packaged beverages, which may contain sugar, caffeine, and other additives,” he said. “They may not have access to a water fountain or filling station while out hiking, camping, or running daily errands.”

“These bans, whether in national parks or college campuses, are misguided attempts to deal with a waste management issue that would be better addressed through efforts to improve recycling rates of all packaged drinks,” he said.

**Daggett County now out of Utah Public Lands Initiative**

The Utah Public Lands Initiative being assembled by Utah Republican Congressmen lost a key supporter this spring.

Daggett County, which last year assembled a consensus recommendation on managing public lands, has resubmitted its proposal and will no longer be included in a Public Lands Initiative bill.

County Commission Chair Karen Perry told us last week, “We have been informed verbally that our current proposal will not be included in the bill, as it does not fit the ideas of the bill.”

That may be because the commission has strengthened its opposition to conservation designations. As the commission wrote Rep. Rob Bishop (R-Utah) in May, “We feel the active management of Watersheds, Wildlife habitat, rangeland and Forests are the correct way to preserve our Public Lands for future generations.”

The commission added, “To lock large areas of Public Lands in Wilderness or National Conservation Areas, limits the use to an elite few. This was never the intention of the lands set aside. To allow no management (in the act of preservation) of lands that have been altered by man’s activities is a recipe for disaster.”

Bishop’s office said that, even with Daggett County’s new position, it was proceeding to write legislation. A spokesman said, “Despite Daggett County’s withdrawal, the initiative process continues. Legislation is being drafted now, and in the spirit of thorough and thoughtful attention to the details of this initiative, there is no self-imposed deadline at this time.”

The Utah Public Lands Initiative is attempting to reach a consensus on the management of federal lands in eastern Utah, particularly lands managed by the Bureau of Land Management and the Forest Service.

Meanwhile, as we reported in the last issue of FPR, the Southern Utah Wilderness Alliance (SUWA), an early participant in the initiative, is having second thoughts about it.

SUWA said a fortnight ago that the “Grand Bargain” legislation being written under the lead of Bishop is running off the tracks. SUWA said proposals submitted by Utah counties that are supposed to balance use with protection are siding too often with use.

“Many of the counties involved in Rep. Bishop’s initiative have stymied real progress by taking a ‘business as usual’ approach,” said SUWA in a June 25 press release. “They propose fragmented wilderness designation while rolling back existing wilderness study areas. Even their ‘conservation area’ designations are often rendered meaningless because they are opened to oil and gas development and riddled with roads.”

David Garbett, a staff attorney with SUWA, told us his alliance is still trying to work with Bishop and company.
“Yes, we are cooperating,” he said. “We are pushing for Daggett County to be involved.” But, he said, the Daggett County withdrawal is a “pretty bad sign for the rest of the counties.”

Garbett also said, “Daggett County’s new proposal is sad and a big loss for the national public lands of this area. The fact that Rep. Rob Bishop could not even stand this stinker of a proposal, gives you an indication how bad it is.”

Bishop, along with Rep. Jason Chaffetz (R-Utah) and Rep. Chris Stewart (R-Utah), launched the campaign back in February 2013. Bishop chairs the House Natural Resources Committee, so if the delegation ever does put legislation together he would be in position to give it a running start in the House.

Driving Bishop in part is the possibility that the Obama administration would designate large national monuments in eastern Utah. Conservationists have often recommended designation of a 1.4 million-acre Canyonlands National Monument on BLM-managed land in southern Utah. They have asked President Obama to designate the monument adjacent to Canyonlands National Park.

Some 12.7 million acres of federal land in Utah are reserved for conservation purposes, including national parks, wilderness, wilderness study areas, wild and scenic rivers, and national monuments. In addition Congressional Democrats are pushing for the designation of 9.1 million acres of new wilderness, mostly from BLM-managed lands.

The seven counties participating in the Utah Public Lands Initiative – Daggett, Grand, Emery, San Juan, Wayne, Carbon and Uintah – have to varying degrees submitted recommendations. We reviewed the recommendations from Grand and San Juan Counties but those proposals offered no clear summaries of what land uses their notices propose. The recommendations are significantly detailed.

As for Daggett County on Oct. 21, 2014, Bishop and Utah politicians reached an initial, extraordinary agreement with environmentalists, sportsmen and other parties on a half-dozen thorny public land management issues affecting the country. That deal was expected to serve as a model for agreements with the other six counties.

The agreed-to principles for Daggett County last year included a land exchange with the state to open up 10,000 acres to energy development, the designation of wilderness areas, the designation of a conservation area, the exchange of land to open the way for a resort, and an approach to resolving disputes over RS 2477 ROW claims.

But there is a new Daggett County Commission now under chair Perry, who is the only returning commissioner from last year. She does inform us that the RS 2477 portion of the recommendation is unchanged.

Notes

Conservation easements back.
The Senate Finance Committee July 21 approved a two-year extension of a conservation easement law that allows a significant deduction for the donation of the easements. The current law (PL 113-295) extended the high deduction through the 2014 tax year. The provision in the Senate Finance Committee would extend the higher deductions through tax years 2015 and 2016. The extension provision is included in a package of tax breaks called Tax Extenders. There was a move afoot last year to make the easement permanent but the Office of Management and Budget opposed locking in $500 billion (in the larger bill) of deficit spending over 10 years. The conservation easement provision, if stretched out over 10 years, would cost an estimated $280 million of that amount. 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 sponsor last year of counterpart stand-alone easement legislation, Rep. 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.”

BLMers object to land disposal.
An alliance of Bureau of Land Management (BLM) retirees is taking sharp exception to two riders in a fiscal year 2016 appropriations bill (HR 2822) now on the House floor that would have land managers examine their lands for possible sale. One amendment, proposed by Rep. Ted Poe (R-Texas), would shift $1 million of BLM appropriations around to pay for the review. A second Poe amendment would do the same for the Forest Service. But the Public Lands Foundation said in a July 14 letter to House appropriators that BLM and the Forest Service already have authority to study lands for disposal and to sell them. “First of all, when the Federal Land Policy and Management Act (FLPMA) passed in 1976, retention of the public lands became the law of the land. And, these lands are to be managed for the long-term sustainable benefit of the citizens of the United States. Section 204 of FLPMA provided for careful planning and administrative steps so that public land meeting specific criteria could be sold at fair market value if found to be in the public interest. This mechanism has worked well for 40 years and does not need changing,” said the letter from Edward W. Shepard, president of the foundation. But, Poe said, “Instead of letting this land sit idly in the hands of Washington, why not sell it? The sales of just a small portion of this unused land could net billions of dollars.” The House approved the Poe amendments without debate and without a formal vote. Although the Poe amendments are modest, they symbolize the ongoing campaign in the West to dispose of large swaths of the public lands.

Duck populations the same. The Fish and Wildlife Service (FWS) said recently that estimated duck populations are similar to counts conducted last year. That is, FWS estimates a breeding population of 49.5 million ducks, compared to 49.1 million last year. On the half-full glass side the duck population is 43 percent higher than the long-term average. That is expected to translate into hunting seasons and bag limits similar to last year. Indeed on July 21 FWS proposed in the Federal Register early season frameworks for states to follow in setting their seasons and bag limits. Despite the large number of ducks FWS issued a note of caution, saying, “While this year’s survey results were very favorable, when and where waterfowl will be encountered this fall depends on many factors. Food availability and the condition and distribution of water resources all influence local duck and goose abundance, distribution, behavior, and ultimately, hunter success.”

Civil rights courthouses honored.
The Park Service said July 20 that three southern federal courthouses that took the lead in civil rights cases in the 1950s and 1960s have been designated as national historic landmarks. The courthouses, part of the Fifth U.S. Circuit Court of Appeals, are located in New Orleans, Atlanta and Montgomery, Ala. In 1999 Congress directed the Park Service to conduct a study of civil rights sites. That led to the recommendation of the three sites.

Browns Canyon (Colo.) dedicated.
The Interior Department and the Forest Service held a dedication ceremony July 18 for a 22,000-acre Browns Canyon National Monument in the upper Arkansas River Valley near the town of Salida, Colo. The department and the Forest Service praised President Obama for designating the monument February 19 under the Antiquities Act of 1906. Secretary of Interior Sally Jewell intimated that the designation was strongly supported by the local community. “Today’s celebration honors the culmination of more than a decade of work by the local community to protect this amazing area,” she said. “Thanks to committed local leadership, and support from tribal, state and national leaders, this stunning landscape with unique recreational, scenic and historic value is now preserved for future generations to explore and enjoy while also preserving all valid and
existing rights.” But Rep. Doug Lamborn (R-Colo.), who represents the area in Congress, intimated that the community did not support the monument. “This designation goes directly against the wishes of thousands of disenfranchised local residents who have raised concerns regarding grazing rights, water rights, outdoor recreation, and wildfire management issues and who continue to voice their opposition,” he said. However, Lamborn’s predecessor in office, former Rep. Joel Hefley (R-Colo.), praised the President’s action. The 22,000-acre monument, on Bureau of Land Management and Forest Service land, includes granite cliffs, rock outcroppings and mountain vistas, according to the White House.

World Trade Center Memorial? A bipartisan group of House members introduced legislation (HR 3036) July 13 that would designate the National September 11 Memorial at the World Trade Center as a national memorial. The bill, under lead sponsor Rep. Thomas MacArthur (R-N.J.), would also authorize grants of up to $25 million per year to a World Trade Center Foundation for “operation and maintenance” of the memorial. The memorial has already been constructed and is in operation. The bill makes clear the memorial will NOT be a unit of the National Park System and is not eligible for Park Service appropriations money.

Gulf residents: RESTORE good idea. A new poll conducted for a conservation group says that 68 percent of Gulf of Mexico voters say that conservation projects should receive priority from RESTORE funds. On July 2 BP oil company agree to pay $5.5 billion into a RESTORE fund set up by Congress that would help Gulf states recover from the 2010 Deepwater Horizon oil spill. Of the $5.5 billion 80 percent — or up to $4.4 billion — would be used for state and federal grants. Federal and state parks and refuges in Gulf States are in line to receive a significant share of the $4.4 billion over the next 15 years. The poll conducted for the Theodore Roosevelt Conservation Partnership and The Nature Conservancy found that 68 percent of Gulf Coast voters agreed with the notion that the money should “be used mainly for construction of roads, convention centers, school buildings, and other projects on the Gulf Coast.”

Conference calendar

AUGUST


SEPTEMBER

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