

# Federal Parks & Recreation

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## Guaranteed LWCF may be up for approval in House and Senate

The House and Senate at press time were on the verge of giving the Land and Water Conservation Fund (LWCF) its most significant boost since the law was enacted in 1965.

The House was scheduled to take up today (July 30) a comprehensive energy bill (HR 3534) that would guarantee the program \$900 million per year for the next 30 years. Without need for an appropriation. The bill would also guarantee \$150 million per year for the Historic Preservation Fund.

The full Senate next week is scheduled to begin work on a counterpart bill (S 3663) that would guarantee \$900 million per year for LWCF through fiscal year 2015. The Senate bill doesn't address the Historic Preservation Fund.

Senate Majority Leader Harry Reid (D-Nev.) put together the abbreviated Senate energy bill that is to serve as a substitute for a more ambitious climate change bill. Senate Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) wrote the House bill that primarily addresses the Gulf oil spill.

Republicans are not enthused about the LWCF provision. Said the office of ranking Senate Energy Committee Republican Lisa Murkowski (Alaska), "Democrats allow LWCF to cut to the front of the OCS revenue line before coastal states get their money. With the Gulf states trying to recover from the Deepwater Horizon spill, priority for any OCS revenue distribution must be on clean up and restoration in the Gulf; . . ." Sen. Kay Bailey Hutchison (Texas) predicted the bill wouldn't even reach the Senate floor.

If House Republicans follow the lead of their fellows in the committee,

they will attempt to strike the LWCF and historic preservation guarantees from the bill. But at press time leadership had not indicated if such an amendment would be allowed.

The existing Land and Water Conservation Fund Act authorizes - but does not guarantee - \$900 million per year for conservation purposes. Appropriators routinely put up much less than the full amount. LWCF is financed by offshore oil and gas royalties and the account now stands at more than \$18 billion.

Senators and House members from both parties who are sympathetic to LWCF have made repeated attempts over the last decade to provide guaranteed money for the program. Those attempts all failed or petered out. The Senate and House floor actions could be the most successful efforts yet.

The American Land Rights Association (ALRA) rang the alarm to its members, urging opposition to both the Senate and House bills.

Said ALRA in a July 23 bulletin, "These will end up being permanent Trust Funds that will guarantee huge amounts of money for land acquisition, condemnation and other uses. They will undermine local communities, destroy local economies, severely damage small business, cost thousands of jobs, force rural families into the cities and generally destroy rural America."

But The Wilderness Society is very much on board. Said society President William H. Meadows after the House committee approved HR 3534, "This morning, the House Natural Resources Committee passed a watershed piece of legislation for America's treasured wild places - providing for additional protected lands and building on previous conservation successes. Fully funding (LWCF) provides a fair environmental return to the public through long-term protection of threatened habitats, beaches, waterways, and other special places across America."

The Obama administration is sympathetic to the measure, even if it has

not specifically endorsed HR 3534. In its fiscal 2011 budget request the administration said it intended to reach full funding of \$900 million per year for LWCF by the end of the President's first term.

At some point the Senate and House Energy bills may be married up, according to the game plan.

In a closely related development the House subcommittee on Interior appropriations July 22 approved a \$518 million appropriation for LWCF for fiscal year 2011, or \$68 million more than a fiscal 2010 appropriation of \$450 million. (The subcommittee number is \$72 million less than the administration request of \$590 million, largely because it would not fund a \$42 million acquisition by the Bureau of Land Management to store excess wild horses in the Mid-West and East.) Out of the \$518 million for LWCF, \$55 million would go to the state side of LWCF.

Reid's LWCF provision is complex. After five years of guaranteed full funding it would guarantee only \$500 million in fiscal 2016. It would then remove the guarantee from fiscal years 2017 through 2020, subjecting LWCF to appropriations. But beginning in fiscal 2021 it would again guarantee \$500 million per year again.

## **House subcommittee holds the line on FY 2011 spending**

The House subcommittee on Interior appropriations approved a fiscal year 2011 appropriations bill July 22 that would put up the same amount of money in total as a fiscal 2010 law - \$32.2 billion.

The subcommittee is holding program breakdowns close to its chest until the full appropriations committee acts (if it acts), but we were able to obtain some information.

For the National Park Service the subcommittee approved a modest increase of \$21 million over the fiscal 2010 appropriation, or \$2.764 billion compared to \$2.743 in fiscal 2010.

For the Land and Water Conservation Fund (LWCF) the subcommittee approved an increase of \$68 million, or \$518 million compared to \$450 million in fiscal 2010. (The subcommittee number is \$72 million less than the administration request of \$590 million, largely because it would not fund a \$42 million acquisition by the Bureau of Land Management to store excess wild horses in the Mid-West and East.)

Out of the \$518 million for LWCF, \$55 million would go to the state side of LWCF, a \$15 million increase over the fiscal 2010 level of \$40 million.

**FOREST SERVICE:** For national forest recreation the subcommittee approved an increase of \$10.9 million, or \$296 million compared to \$285.1 million in fiscal 2010. For national forest trails the subcommittee approved a \$1.6 million increase, or \$87 million compared to \$85.4 million in fiscal 2010. For national forest legacy roads and trails the subcommittee approved the same appropriation as in fiscal 2010, \$90 million (the administration had requested just \$50.4 million.)

**FISH AND WILDLIFE SERVICE:** For refuge management the subcommittee approved about the same amount of money as in fiscal 2010, \$502 million. The subcommittee also approximated the fiscal 2010 level of \$90 million for state and tribal wildlife grants.

Subcommittee Chairman James Moran (D-Va.) said his panel insured that community grant programs, such as the state side of LWCF were protected. "We have restored many grant programs that have for years been Congressional priorities, including Save America's Treasures, Heritage Area Partnerships, Preserve America, wildlife protection grants, HBCU, State-side LWCF grants, Endocrine Disrupter Research, and Climate Community Grants," he said. He did not include the Urban Parks and Recreation Recovery program in that list.

During the subcommittee mark-up, Republicans and Democrats clashed early and often over climate change, immigration, the Gulf oil spill recovery and

total spending, suggesting strongly the bill will go nowhere until after the November election.

Said ranking subcommittee Republican Mike Simpson (Idaho), "It's unlikely our bill will come before the full committee or be on the House floor this year." Indeed, the betting is that after the November 2 elections the bill will be included in an omnibus continuing resolution, or Congress will simply extend fiscal 2010 spending levels for one more year.

The House Appropriations Committee set a \$32.2 billion spending ceiling for the subcommittee, again the same as fiscal 2010. However, that is still \$4.6 billion more than the fiscal 2009 spending cap of \$27.6 billion. The Senate Appropriations Committee has established a slightly higher cap of \$32.2 billion.

Rep. Jerry Lewis (R-Calif.) said the House ceiling is too high. "This bill has grown by over \$6 billion in the last three years," he said. "Of course that doesn't even count \$11 billion in stimulus funds last year." He faulted "the remarkable acceleration of spending for a bill this size over so short a time."

But Rep. Norman Dicks (D-Wash.), former chairman of the subcommittee, said the ceiling was reasonable. "Between 2000 and 2008 Interior was cut by 16 percent, EPA was cut by 29 percent and the Forest Service was cut by 35 percent," he said. "So these bills have been in a catch-up mode. This isn't reckless spending by any stretch of the

### **Notice: Publishing Change**

*Dear Subscriber:*

*We are taking a brief break in our publishing schedule during the annual Congressional August recess. The next issue of Federal Parks & Recreation will be published on August 27. All offices will be open in August except for the 9th, 10th and 11th. We will resume a regular biweekly publishing schedule in late August.*

imagination. Thank goodness we did get a generous allocation in 2010 because many of these programs - wildlife refuges, our parks - were in serious trouble and we had to restore them."

Here is a recap of the Obama administration's fiscal 2010 request for Interior and related agencies. Again, this is the administration request; it does NOT include the House numbers:

\* STATE LWCF: an increase of \$10 million, or \$50 million compared to a fiscal 2010 appropriation of \$40 million;

\* STATE WILDLIFE GRANTS: no change, or \$90 million compared to a fiscal 2010 appropriation of \$90 million;

\* FEDERAL LWCF: an increase of \$106 million, or \$384.1 million compared to a fiscal 2010 appropriation of \$277.9 million;

\* URBAN PARKS AND RECREATION RECOVERY: no money, the same as fiscal 2010;

\* FOREST LEGACY: an increase of \$23.7 million, or \$100.1 million compared to a fiscal 2010 appropriation of \$76.5 million;

\* HISTORIC PRESERVATION STATE GRANTS: no change, or \$46.5 million compared to a fiscal 2010 appropriation of \$46.5 million;

\* SAVE AMERICA'S TREASURES: a decrease of \$25 million to nothing, from a fiscal 2010 appropriation of \$25 million;

\* NPS OPERATIONS: an increase of \$35.3 million, or \$2.297 billion compared to a fiscal 2010 appropriation of \$2.262 billion;

\* NPS CONSTRUCTION: a decrease of \$44.6 million, or \$195.2 million compared to a fiscal 2010 appropriation of \$239.8 million;

\* NPS RECREATION AND PRESERVATION: a decrease of \$17.4 million, or \$51 million compared to a fiscal 2010 appropriation of \$68.4 million;

\* PARK SERVICE CENTENNIAL CHALLENGE: a decrease of \$5 million from \$10 million in fiscal 2010 to \$5 million;

\* FOREST SERVICE RECREATION: an increase of \$8 million, from \$285.1 million in fiscal 2010 to \$293.2 million;

\* FOREST SERVICE TRAILS: a de-

crease of \$2.3 million, from \$85.4 million in fiscal 2010 to \$83.1 million;

\* FS LEGACY ROADS AND TRAILS: a decrease of \$39.6 million, from \$90 million in fiscal 2010 to \$50.4 million;

\* BLM RECREATION MANAGEMENT: essentially the same, or \$68.1 million compared to a fiscal 2010 appropriation of \$68.4 million; and

\* FWS REFUGE MANAGEMENT: a decrease of \$3 million, or \$500 million compared to a fiscal 2010 appropriation of \$503 million.

## **New Centennial Challenge partnership in the works**

With the Bush administration program to spruce up the National Park System by its centennial in 2016 more or less dead, supporters of the parks are looking for a new vehicle to help the parks.

They have their eyes on President Obama's America's Outdoors Initiative. Thus, on July 22 the National Park Foundation and the National Parks Conservation Association wrote conservation leaders and asked them to participate in a new Centennial steering committee.

Said the invitation, "The task of the steering committee is to outline a national campaign that would launch in 2012 and build through the Centennial (2016), and to develop a description of the campaign that can be used by multiple organizations to advocate on its behalf as a part of the Administration's America's Great Outdoors (AGO) initiative."

The July 22 letter was cosigned by Tom Kiernan, president of the National Parks Conservation Association, and Neil Mulholland, president of the National Park Foundation. Kiernan and Mulholland asked the invitees to choose a best date for a conference call on August 2, 5 or 6.

The sponsors say they intend to draft shortly a sample recommendation that can be submitted to the America's Outdoors Initiative and be included in the initiative's report, due in mid-November.

The letter described the works of the steering committee, "The steering committee will draw from a range of organizational experience designing and implementing national park campaigns, as well as collective efforts and lessons learned from the Centennial Challenge."

In 2007 then Secretary of Interior Dirk Kempthorne launched the Centennial Initiative as a \$3 billion, two-part effort. One part would spend \$1 billion to upgrade the core operations of the national parks in time for the centennial. Congress has largely provided the parks with down payments on that money over the last three years.

The other part of the initiative would consist of a Centennial Challenge to make non-core improvements to the national parks. The Challenge would have had Congress put up \$100 million per year to be matched by \$100 million in private contributions, for a total of \$200 million per year. While Congress has approved some seed money for the effort in appropriations bills, it has not authorized a standing program.

## **Yellowstone identifies six options for snowmobile EIS**

Yellowstone National Park last week laid out six alternatives that it will consider for snowmobile use in the park, beginning with the winter of 2011-2012.

Four alternatives would allow varying numbers of snowmobiles, one alternative would transition to snowcoaches only and one would eliminate both snowcoaches and snowmobiles.

The park didn't choose a preferred alternative for its draft EIS. That choice won't be made until the draft EIS is published in February/March 2011.

The park will hold two online "webinars" on August 3 and August 5 to explain the alternatives. To register for the August 3 session scheduled for 7-8 p.m. Mountain time go to <https://www1.gotomeeting.com/register/936260544>. To register for the August 5 session to

be held at 10-11 a.m. Mountain time go to <https://www1.gotomeeting.com/register/302796888>.

On August 4 the park will hold a telephone conference. The number is (877) 918-1346 and the passcode is 8654495, followed by the pound (#) sign.

Meantime, for this next winter of 2010-2011 the park will stick with an interim rule that allows 318 snowmobiles per day and up to 78 snowcoaches per day. That is among the six alternatives NPS will consider.

The EIS will also consider an alternative that would return to 2004 plan limits of up to 720 snowmobiles and 78 snowcoaches per day.

The Park Service for the fourth time this decade is attempting to develop a permanent rule to govern snowmobile use in Yellowstone. The previous three rules were thrown out by various courts, forcing NPS to issue temporary rules.

Interest groups have laid out their anticipated recommendations. The State of Wyoming under Gov. Dave Freudenthal (D-Wyo.) has consistently called for a cap of 720 snowmobiles per day. Freudenthal is leaving office at the end of the year, but his successor is expected to support snowmobile use at least as he does.

Snowmobile advocates are expected to ask for 450-500 machines per day, with a slightly higher ceiling for holidays, according to the BlueRibbon Coalition.

And environmentalists and the Coalition of National Park Service Retirees will recommend few, if any, snowmobiles in the park. They will accept snowcoaches.

The interim rule has generated hard feelings. As *FPR* has reported, Park Service retirees in January charged that Yellowstone officials were biased in favor of snowmobiles. The Coalition of National Park Service Retirees asked NPS Director Jon Jarvis to intercede on

behalf of interests that oppose snowmobile use in the park.

Here are the six alternatives, again NPS has not chosen a preferred alternative:

Alternative 1: No Action. It would not allow over-snow vehicles in the park after the interim rule expired this coming winter.

Alternative 2: Extend existing limits. It would keep in place the present limits of 318 snowmobiles and 78 snowcoaches per day.

Alternative 3: Return to 2004 limits. It would increase the limit on snowmobiles to 720 per day and keep the 78 snowcoach per day limit of this coming winter. It harkens back to a 2004 Bush administration plan that is favored by Gov. Freudenthal.

Alternative 4: Mixed use. It would allow up to 100 snowmobiles and 30 snowcoaches per day, but only from the south entrance. Some roads would be plowed for bus and van access.

Alternative 5: Snowcoaches only. It would transition to snowcoaches only beginning in the 2014/2015 season. Until then 318 snowmobiles per day would be allowed.

Alternative 6: Mixed use. It would establish varying levels of snowmobile use, with up to 540 snowmobiles per day and 78 snowcoaches.

For more information on the plan go to <http://parkplanning.nps.gov/yell> and click on Winter Use at the bottom of the list.

## Corps, Transportation, and Ag appropriations bills moving

Senate and House Appropriations Committees are beginning to move fiscal year 2011 spending bills with outdoor policy implications. The total bill spending limits approximate fiscal 2010 levels.

Whether those bills will ever be enacted as stand-alone measures is doubtful, given the hostile political situation in both Houses. It is widely assumed that Congress will defer action on spending bills until after the Novem-

ber 2 elections and then lump them in a continuing resolution. Whether that continuing resolution includes full spending bills or simple extensions of fiscal 2010 levels has, of course, not been decided.

Still, the committees have taken these actions recently:

ENERGY AND WATER: The full Senate Appropriations Committee approved this bill (S 3635) July 22 that finances the Corps of Engineers and the Bureau of Reclamation. The House subcommittee on Energy and Water Appropriations approved a counterpart bill (no number) July 15.

For the Corps of Engineers the Senate committee approved \$5.3 billion in fiscal 2011, or \$125 million less than the fiscal 2010 level. The House subcommittee about met the fiscal 2010 number. (The Corps numbers can be misleading because the agency must spend huge amounts of money to address natural disasters, such as hurricanes. While much of the disaster money is provided in supplemental emergency measures it can still distort the annual appropriations.)

For the Bureau of Reclamation the Senate committee approved \$1.133 billion, or the same as the fiscal 2010 appropriation. The House subcommittee would spend \$22 million less, or \$1.108 billion.

For the entire bill the Senate committee would provide \$35 billion, or \$1.535 billion less than the fiscal 2010 appropriation of \$33.5 billion.

TRANSPORTATION: The full Senate Appropriations Committee approved this bill (S 3644) July 22 that pays for highway and transit programs. The full House Appropriations Committee approved its counterpart bill (HR 5850) on July 20. The House may take up HR 5850 next week.

For highways the Senate committee approved \$42 billion, or the same as the fiscal 2010 appropriation of \$42 billion, but the House Appropriations Committee approved \$3 billion more than its Senate counterpart, or \$45 billion.

The Senate cap for the transportation bill was \$68 billion, or \$600 million more than the fiscal 2010 level of \$67.4 billion. The House committee operated from almost the same cap as fiscal 2010, \$67.9 billion.

AGRICULTURE: The Senate subcommittee on Agriculture Appropriations approved this bill (no number) July 15 and the House Agriculture Committee July 27 postponed a scheduled mark-up of a subcommittee-passed bill.

The Senate Appropriations Committee established a cap that was \$500 million less than the fiscal 2010 spending level, \$22.8 billion to \$23.3 billion. The House subcommittee approved \$200 million, or \$23.1 billion.

## **Ski area bill, cabin fee bill become omnibus candidates**

Two important outdoor bills took major steps forward last week, raising the possibility they will be eligible for an omnibus lands bill this fall. Assuming of course an omnibus lands bill is assembled.

The Senate Energy Committee July 21 approved a bill (S 607) that would authorize ski resort owners to provide year-round recreational opportunities on public lands.

And a day later the House Natural Resources Committee approved a bill (HR 4888) that would establish flat fees for cabin owners in national forests.

The Senate committee also approved July 21 a Susquehanna Gateway National Heritage Area in Pennsylvania (S 349) and a bill (S 3303) to designate a Chimney Rock National Monument in Colorado.

The committees have now approved dozens of bills that are reasonable candidates for inclusion in an omnibus bill later this year. Secretary of Interior Ken Salazar has promoted the idea of an omnibus bill similar to an omnibus lands bill Congress approved last year (PL 111-11 of March 30, 2009.)

The Senate Energy Committee, which usually assembles the ingredients for an omnibus measure, has not yet begun to put together a new omnibus, but that doesn't mean one will not be prepared. The ultimate call will be made by Senate Majority Leader Harry Reid (D-Nev.)

Obvious candidates for the omnibus are a bill to transfer the Valles Caldera area in New Mexico to the Park Service, as well as measures to designate wilderness and trails in central Idaho, to extend a popular federal land sales bill, to designate a national park in Delaware (the state has none now), designate a handful of national heritage areas, and much more. Here's a summary of a few candidates:

SKI AREA BILL: S 607, HR 2476. Because Forest Service policy is unclear about what uses ski resorts may authorize on federal lands in the off-season the industry asked Congress to provide explicit authority. That the Senate committee would do with S 607. The measure, introduced by Sen. Mark Udall (D-Colo.), would allow year-round recreational activities.

The House Natural Resources Committee approved a counterpart bill (Dec. 16, 2009, that responds to administration concerns about vague authority. Thus the House committee ruled out inappropriate uses, such as golf courses, tennis courts, amusement parks. Rep. Diana DeGette (D-Colo.) introduced the House bill.

FS CABIN FEE BILL: HR 4888. The cabin fee bill was introduced by ranking House Natural Resources Committee Republican Doc Hastings (D-Wash.) The committee approved it under a unanimous consent procedure. Under existing Forest Service practice fees can shoot up dramatically when new appraisals of the value of the cabins are performed. There are 14,000 cabins in the national forests that are privately owned. The owners in turn pay the Forest Service a yearly fee to retain use of their lots.

To prevent fee spikes the bill would establish five levels of flat fees based on the value of cabins. Tier one

would pay \$500, tier two \$1,000, tier three \$2,000, tier 4 \$3,000 and tier 5 \$4,000. The legislation would also establish a flat transfer fee of \$1,000 plus five percent for sales between \$250,000 and \$500,000 and 10 percent on sale of more than \$500,000.

VALLES CALDERA BILL: S 3452. The Senate Energy Committee held a hearing on the Valles Caldera bill July 1. When Congress designated the preserve on 88,900 acres of Santa Fe National Forest land in 2000, it transferred management to a Valles Caldera Trust with the idea the trust could raise money and be self-sustaining.

But, said chief bill sponsor Jeff Bingaman (D-N.M.), who chairs the Senate Energy Committee, the trust needs to come up with \$15 million for construction and maintenance and he doubts that will happen. So he called for a transfer to the Park Service.

Faced with a potential turf battle between NPS and the Forest Service, the Obama administration essentially (1) let each agency make its case and (2) deferred a final call to Congress.

CENTRAL IDAHO ECONOMIC DEVELOPMENT AND RECREATION ACT (CIEDRA): S 3294, HR 5205. The Senate committee held a hearing June 16 on this bill from Idaho's two Republican senators. While the Obama administration generally endorsed the bill, Idaho Gov. C.L. "Butch" Otter (R) opposed it.

Motorized recreation interests are also mounting a last-minute attack against the bill because it would close snowmobile and mountain bike trails. The Blue Ribbon Coalition (BRC) said in a bulletin to its members, "BRC and the Idaho Recreation Coalition are working hard to stop CIEDRA, but the situation looks grim, as both Idaho's Senator's are now co-sponsors. Hope is not lost, however, as Idaho's Governor Butch Otter has written a letter opposing CIEDRA."

Still, with two Republican senators behind it, S 3294 has crucial support in the Senate and the House passed a predecessor bill on July 24, 2006. Rep. Mike Simpson (R-Idaho) introduced a

new version of the bill (HR 5205) this year.

FEDERAL LAND TRANSACTION FACILITATION ACT: S 1787, HR 3339. The Senate Energy Committee June 21 approved this legislation that would allow the Bureau of Land Management (BLM) to sell lands cleared by all land management plans, not just plans completed prior to 2000, as the old law does. Sen. Bingaman and Rep. Martin Heinrich (D-N.M.) introduced the legislation. Under an existing law BLM may only sell lands cleared for disposition by land management plans completed prior to 2000. BLM has raised more than \$100 million from the land sales. Most of that money is used for conservation and acquisition.

MONUMENTS: An omnibus bill could also provide a home for national monuments that the Interior Department is evaluating, if the monuments aren't designated by Presidential proclamation under the Antiquities Act of 1906. An internal Interior Department document indicates that the department is evaluating 14 such monuments.

DELAWARE NATIONAL PARK: S 1801, HR 3893. Sens. Thomas Carper (D-Del.) and Edward Kaufman (D-Del.) introduced this bill to establish a National Park System unit in their state of Delaware. Rep. Mike Castle (R-Del.) introduced a counterpart bill October 21. The energy committee held a hearing on it May 19. Delaware, the first state to vote to join the union, is also the only state without a unit of the National Park System. Carper and Kaufman would change that by designating a First State National Historical Park. The park would include historical sites, such as an area in Dover where local officials decided to ratify the U.S. Constitution.

GETTYSBURG EXPANSION: S 3159, HR 4395. The House approved HR 4395 March 19. Pennsylvania Sens. Arlen Specter (D) and Robert B. Casey (D) have introduced their own version of the bill that would add the Gettysburg Railroad Station to Gettysburg National Military Park. The energy committee held a hearing on it May 19. The bill would also add a 45-acre tract south of the battlefield to the park. The National Trust



for Historic Gettysburg currently operates the railroad station. Rep. Todd Russell Platts (R-Pa.) introduced the House bill.

NATIONAL HERITAGE AREAS: At least a dozen bills have been introduced that would designate new national heritage areas around the country and at least three study bills. Three designation bills have received attention in either the Senate or the House. Three are in position to move: One (HR 324) would designate a Santa Cruz Valley National Heritage Area in Arizona; it was approved by the House Sept. 23, 2009. A second (S 2892) to designate an Alabama Black Belt National Heritage Area was approved by the Senate Energy Committee June 21. And a third to designate a Susquehanna Gateway National Heritage Area was approved by the Senate committee July 21.

## Nothing scheduled on House wetlands bill; GOP opposes

House Transportation Committee Chairman James Oberstar (D-Minn.) in April appeared to be determined to move this year his bill (HR 5088) to make clear that most wetlands must receive Clean Water Act permits. But the legislation remains a long shot.

"It will be tough," said a minority committee staff member. "Anything is possible and the chairman really wants it, but a lot of Republicans and a lot of Democrats oppose it."

No mark-up is on the committee schedule, said a majority staff member, and "we will be in recess until mid-September, so it looks like there will be no movement before then."

To prevent Oberstar from running the bill through the committee in September, the ranking Republicans from three other committees last month asked for hearings.

"At a time when creating and protecting jobs should be our top priority, we need to gain a full understanding of the effects that this bill will have on

the economies of rural communities and the nation as a whole," wrote the three Republicans.

The letter was signed by ranking House Natural Resources Committee Republican Doc Hastings (Wash.), ranking House Agriculture Committee Republican Frank Lucas (Okla.) and ranking House Small Business Committee Republican Sam Graves (Mo.)

The legislation is designed to reverse a June 2006 Supreme Court decision that held that only water bodies related to navigable waters should be regulated. Conservation groups such as Ducks Unlimited say the subsequent federal policy has led to the destruction of breeding habitat for ducks, and threatens thousands of additional acres.

Oberstar introduced HR 5088 on April 21. He had introduced a similar bill in the last Congress. However, opposition from agricultural interests such as the American Farm Bureau and private property rights advocates has paralyzed the House, along with the press of other business.

This year Oberstar limited the bill's sweep, compared to the last Congress, by offering exemptions for cropland converted prior to the Clean Water Act and certain waste treatment systems.

The legislation would effectively restore the status quo ante before the 2006 Supreme Court's Rapanos decision. It would require permits from the Corps of Engineers and EPA under Section 404 of the Clean Water Act for activities affecting most water bodies.

There has been some action in the Senate. The Senate Environment and Public Works Committee June 18, 2009, approved a counterpart bill (S 787) but the measure has not moved any further toward Senate floor action. The American Land Rights Association, among other private property rights advocates, has helped keep S 787 off the Senate floor with repeated attacks.

Oberstar does have administration support. The Corps of Engineers, which

has lead responsibility for issuing Section 404 wetlands permits, said HR 5088 would restore the sweep of the Clean Water Act to that before the Rapanos decision.

"The Army holds the view that HR 5088, as drafted, would generally restore the historic scope of the Clean Water Act jurisdiction as it existed prior to SWANCC and Rapanos/Carabell," wrote Jo Ellen Darcy, assistant secretary of the Army for Civil Works.

But Reed Hopper, lead attorney for the Pacific Legal Foundation in the 2006 Rapanos U.S. Supreme Court case, said, "If it were to pass, HR 5088 would give federal bureaucrats unprecedented powers to control the use of virtually any wet spot in the country and much of the surrounding land."

## **DoI IG suggests big Utah oil and gas sale not political**

The Interior Department said last week that it has no plans to change course in the disposition of 77 withdrawn oil and gas leases in Utah near three national parks.

Following the release of a long-delayed Inspector General (IG) report that said in effect politics was not involved in offering the tracts, Utah officials and the energy industry separately demanded that Salazar reinstate the 77 tracts.

But, said Kendra Barkoff, an Interior Department spokeswoman, "The report has no bearing on the current administration's decision to withdraw the leases to conduct further reviews."

She also suggested the department action conformed to a federal judge's order. Indeed, U.S. District Court Judge Ricardo M. Urbina in the District of Columbia issued a temporary restraining order in January 2009 to delay sale of the tracts and give the Obama administration time to rereview them.

Utah county officials who smoked out the six month-old IG report with a

Freedom of Information Act request are demanding action. They contend the IG report kills Secretary of Interior Ken Salazar's argument for withdrawing the 77 tracts - that the Bush administration politicized the tract selection process. And they say the report requires immediate reissuance of the leases.

"Yes," said Mike McKee, a Uintah County commissioner. "BLM went through a complete process. If the report does nothing, it validates moving forward with the leases."

In a cover memo to BLM Director Robert Abbey, Assistant IG for Investigations John Dupuy said in the Dec. 29, 2009, report, "Our investigation found no evidence to support the allegation that undue pressure was exerted on BLM personnel to complete the (resource management plans) so that previously deferred lease parcels could be included in the lease sale prior to a change in White House administration."

But the IG report strongly suggested that BLM under the Bush administration did not do an adequate job of consulting with the National Park Service before issuing the leases. "We determined, however, that BLM contributed to the perception that the lease sale was rushed when BLM failed to provide advance notice to the National Park Service (NPS) of a revised parcel list, refused to place parcels identified by the NPS back on the deferred list to allow further review of their eligibility for leasing and announced the lease sale on Election Day," the IG said.

Several of the tracts were near Arches National Park, Dinosaur National Monument and Canyonlands National Park.

Sen. Bob Bennett (R-Utah), who has conducted a running battle with Salazar over the tracts, offered the expected scorn, but he did not call for an immediate restoration of the leases. "This report from the department's own Inspector General has underscored yet again what we have said from the beginning - that the cancellation of the leases was wholly unjustified," he said in a statement.

Here's the chronology: In November 2008 BLM announced that it intended to offer for lease sale 241 parcels of land totaling 359,000 acres on Dec. 19, 2008. After numerous protests because a number of tracts were near national parks, national monuments and important cultural resources, BLM pulled more than 110 tracts. But it offered 131 parcels extending over 163,714 acres.

Shortly after the Obama administration took over, Salazar on Feb. 4, 2009, withdrew 77 of the sold tracts and directed BLM to rereview them. As a result of that rereview Salazar on Oct. 8, 2009, said 17 of the tracts should be reoffered for lease, that eight should not be leased and that 52 should be subjected to further study. And that's where we are now.

The battle over the 77 Utah tracts is not being fought just in the political arena. Utah counties have also filed a lawsuit. Uintah, Duchesne and Carbon counties allege that Salazar lacked the authority to pull the leases.

In a press conference in February 2009 Salazar suggested political pressure was exerted to rush the 77 tracts to sale. "In its last weeks in office, the Bush Administration rushed ahead to sell oil and gas leases at the doorstep of some of our nation's most treasured landscapes in Utah," he said.

## **FS begins to promote recreation in planning guidance**

The Forest Service said July 23 that it will give recreation high priority in an upcoming rule that guides planning, and in forest rules developed from that guidance.

The service described how it intends to approach recreation as it develops its guidance rule. The planners said that in its public outreach on the guidance rule, the public asked that recreation be "treated separately."

So, said the Forest Service, "We view the experiential, educational, spiritual, health and economic (among

many others) contributions of recreation, and the value of recreation for connecting people to our lands, as extremely important. Few other activities provide people a sense of place like recreating in the outdoors."

The service went on, "It is critical for the Forest Service to understand and plan for (ecologically and fiscally) sustainable recreation. With this new rule, we expect to build an understanding of recreation uses and infrastructure needs that will guide planning for sustainable use."

The service's approach to recreation is being closely watched because Secretary of Agriculture Tom Vilsack July 7 went out of his way to tout a new Forest Service report that describes the economic benefits of recreation. The report says Forest Service recreation generates about \$13 billion per year in expenditures in communities within 50 miles of national forests. Vilsack spoke at a press conference to announce new grants for recreation access to private land from an "Open Fields" program.

Said Vilsack, "The report revealed that visitors spend \$13 billion directly in those communities within 50 miles of national forests or grasslands. Those dollars in turn in rural communities generate another \$14.5 billion in economic activity sustaining over 223,000 jobs."

Vilsack has not yet revived an old battle between the Clinton and Bush administrations over the value of recreation in national forests to society, compared to commodity uses. The Clinton administration had projected national forest recreation would produce more than \$100 billion per year in economic benefits. The Bush administration pared that down to \$11.2 billion. The Obama administration came out at about the Bush end.

In a separate but related development the service July 16 said it will take the politically risky step of evaluating all lands, not just national forest lands, in preparing a master

planning rule in the next year-and-a-half. And by extension in all new forest plans the agency will evaluate trends on both federal and nonfederal land.

While the service said its rule would only govern uses of national forest lands, the agency said it must consider management by state and local governments and private property owners as well.

"The Forest Service only makes decisions about management on National Forest System lands - period," said the service in a planning document titled Draft All-Lands Approach for the Proposed Forest Service Planning Rule. "But, management on National Forest System lands will be enhanced by understanding and considering the plans and goals for private, tribal, state, and other surrounding lands."

That approach is acceptable to both the timber industry and environmentalists, thus far.

The Obama administration took a first step toward writing a master planning regulation Dec. 18, 2009, when it announced the process it will use. An initial comment period on a notice to intent has already ended. If all goes well, the service anticipates publishing a draft rule in December and a final rule by November 2011.

Although a draft master plan is five months away, the Forest Service team that will write it is posting frequent notices about the procedures it will follow. For instance, on July 9 the Forest Service said it would follow a three-part framework, consisting of assessment, revision and monitor.

That is, the service would begin with an assessment of on-ground conditions. That would be followed by a revision/amendment phase where a proposed action would be prepared based on the first-phase assessment. The final monitoring phase is self-explanatory.

The all-lands approach would blend with the three-part framework, the For-

est Service says. During the assessment phase the agency would review state forest assessments, state wildlife assessments, recreational access, tribal management plans, etc.

The Forest Service said the all-lands approach during an assessment stage would not be open-ended. "It is important to note the goal of these assessments would not be to conduct an exhaustive review or take on a huge new research and assessment agenda - taken too far, this new approach could overwhelm managers and the public," the agency said. The service said it would attempt to strike a "workable, practical, and achievable approach."

During a revision stage individual forests would use the area-wide assessments as a guide in writing plans. "For example, a plan might describe how the unit will contribute to a regional recovery plan for a far ranging threatened species like the grizzly bear, it might provide guidance for sustainable recreation access based on an understanding of demand in the region; or it might characterize the kinds of areas that might be the highest priority for projects or activities such as hazardous fuel reduction," said the Forest Service.

Background: As required by the National Forest Management Act of 1976 (NFMA) the Forest Service has since 1976 prepared 127 forest plans to guide land uses in 155 national forests and 20 grasslands (some plans cover more than one forest and/or grassland.) Under NFMA forest plans are to be revised every 15 years. However, the agency said dozens of the existing plans are overdue for revision because they should have been rewritten between 1998 and 2008.

While the Forest Service prepares the new rule it will use a 2000 Clinton administration rule to guide planning by individual forests. However, that 2000 rule also allows forests in turn to use a 1982 rule. The 1982 rule may be the choice of most forests because the 2000 rule was so complex, the agency told *FPR*.

The Bush administration struck out twice in trying to write a master-planning rule. On January 5, 2005, it completed a first set of regulations, without preparing an EIS. And on April 21, 2008, it tried again with a perfunctory EIS. Two federal judges held separately that the Forest Service failed to adequately evaluate the environmental impacts of the rules.

## Notes

**No fee weekend in August.** The Obama administration has scheduled a no-entrance fee weekend for the National Park System for August 14 and 15. The administration held another fee free weekend June 12-13 during Great Outdoors Week. Secretary of Interior Ken Salazar has been an enthusiastic supporter of expanded visitation to the national parks.

**Coburn blasts DoJ rec grants.** Sen. James Coburn (R-Okla.), unable to obtain the information he wanted from the Government Accountability Office (GAO), last week published his own report criticizing the Department of Justice for spending crime prevention money on recreation. "Craft-making, bowling, and trips to water parks were among the activities GAO identified as being paid for by DOJ," he said. However, GAO in its report did not specify how much money, if any, Justice spent on those activities. Said GAO, "In cases where grant recipients' program narratives identified activities that could be considered recreational in nature, such as trips to bowling alleys and water parks, we were consistently unable to determine funding amounts spent on these activities." GAO said the Justice Department does not keep track of how much crime prevention money is spent on recreation because the department says it would be so expensive. GAO said Justice in fiscal years 2008 and 2009 spent a total of \$4.2 billion on 7,900 crime prevention grants. GAO's response to Coburn's request for an investigation of Justice ran for nine pages. The Justice Department report, *Oversight of DOJ Funds for Recreational Activities*, is available at <http://www.gao.gov/cgi-bin/getrpt?GAO-10-661R>. Coburn's staff

report, *Party at the DoJ*, runs for 42 pages and is available at <http://www.coburn.senate.gov>.

**Hunting and fishing council named.** The Obama administration July 23 appointed 18 people from the old-line recreation establishment to a sportsmen's council that is supposed to interest the next generation in the outdoors. Thirteen of the appointees come from advocacy groups, including chairman John Tomke, former president of Ducks Unlimited. Three come from academia, one is a rancher and one is president of Cabela's. One of the goals of President Obama's America's Outdoor Initiative is to interest youths and minorities in the outdoors. The council is titled the Wildlife and Hunting Heritage Conservation Council. It replaces the Sporting Conservation Council. The Fish and Wildlife Service, the Bureau of Land Management, the Forest Service, the Natural Resource Conservation Service and the Farm Service Agency will provide organizational members and support to the council. The council will operate as an official advisory group under the Federal Advisory Committee Act, so will have to operate publicly.

**Tax breaks on easements sought.** Sen. Mark Udall (D-Colo.) introduced legislation (S 3640) July 22 that would allow rural families to exclude 50 percent of the value of their land from federal taxes, if they put a permanent conservation easement on their properties. The existing law caps the exclusion at 40 percent and at \$500,000. "When Congress first created the conservation easement exemption from estate taxes in 1997, a 40 percent exemption up to a total of \$500,000 made sense," Udall said. "Now, that exclusion is simply too small. Since 1997, average farm real estate values have more than doubled and the average farm is larger, as larger farms are more likely to be economically viable." Two Republican senators cosponsored the bill, Mark Crapo (R-Idaho) and Judd Gregg (R-N.H.)

**Wessels to head NPS Intermountain.** The Park Service has named the Intermountain Region's associate director for administration, John A. Wessels, as the

next Intermountain director. Wessels, who has been with the Park Service since 2000, will take over in August. During his time with NPS Wessels has served as acting deputy superintendent at Golden Gate National Recreation Area, head of business services in the Washington, D.C., headquarters and acting superintendent of Grand Teton National Park and the John D. Rockefeller, Jr. Memorial Parkway in Wyoming. As regional director he will be in charge of 5,000 employees and 92 national parks visited by more than 42 million people each year.

#### **Big transportation cut possible?**

An American Association of State Highway Transportation Officials executive said last week that spending on transportation projects will have to be cut in half in fiscal year 2012 if new revenues are not found. Under existing law surface transportation is funded by gasoline taxes funneled through the Highway Trust Fund. But Congress refuses to increase the gasoline tax and is running out of general fund revenues to supplement the gasoline tax. So Jack Basso, director of program finance at the association said, "If no new cash is found, current levels of federal transportation funding will be cut in half in Fiscal Year 2012." Basso made his comment after a July 14 Department of Transportation listening session on the nation's transportation needs. A wide group of interests has endorsed a gasoline tax increase, including the construction industry and AAA. Rep. John Mica (R-Fla.), ranking Republican on the House Transportation Committee, said July 27 that Congress should look for alternatives to the gas tax. "The next long-term reauthorization must consider a host of financing alternatives to help stabilize the Highway Trust Fund, which currently relies on the increasingly obsolete gas tax for funds," he said at a committee hearing.

#### **America's Outdoors in Minnesota.**

The America's Great Outdoors Initiative will hold its next listening session August 4 in Minneapolis, Minn. President Obama kicked off the America's Great Outdoors initiative at a White House conference April 16 and ordered his cabinet heads to go out into America

and report back to him by November 15 on content. He charged the Council on Environmental Quality with assembling a report with proposed strategies on outdoor policy.

#### **FS to close western bat caves.**

The Forest Service Rocky Mountain Region is considering the closure of all bat caves under its jurisdiction to prevent the spread of white-nose syndrome from the East, according to the Center for Biological Diversity. The disease began in the East and has extended as far west as western Oklahoma. The center said the Forest Service will close all caves under its jurisdiction in Colorado, Kansas, Nebraska and portions of Wyoming and South Dakota.

## **Conference calendar**

### AUGUST

2-6. **National Speleological Society** annual meeting in Essex Junction, Vt. Contact: National Speleological Society, 2813 Cave Ave., Huntsville, AL 35810-4331. (256) 852-1300. <http://www.caves.org>.

2-10. **Outdoor Retailer Summer Market 2010** in Salt Lake City. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

12-16. **American Fisheries Society** annual meeting in Pittsburgh. Contact: American Fisheries Society, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199. (301) 897-8616. <http://www.fisheries.org>.

### SEPTEMBER

7-10. **National Association of State Park Directors** annual meeting in Santa Fe, N.M. Contact: Philip K. McKnelly, NASPD Executive Director, 8829 Woodyhill Road Raleigh, NC 27613. (919) 676-8365. <http://www.naspd.org>.

13-17. **Pro Walk/Pro Bike** conference in Chattanooga, Tenn. Contact: The National Center for Bicycling and Walking, 1612 K Street, N.W., Suite 802, Washington, DC 20006. (202) 223.3621. <http://www.bikewalk.org>.