

Federal Parks & Recreation

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House Approps mostly follows Obama lead on money bill

The House Appropriations Committee was considering at press time legislation that pretty much matched Obama administration recommendations for fiscal year 2010 park and recreation spending.

The committee June 18 was marking up a fiscal 2010 bill (no number yet) for the Interior Department and related agencies that includes an \$129 million increase in spending for Park Service operations, over fiscal 2009. That is, however, \$5 million less than an administration request.

In other areas the bill before the committee includes \$25 million for Park Service Centennial Challenge grants, meeting an administration recommendation; \$108 million more than the administration requested for the Forest Service; and \$114 million more for the Land and Water Conservation Fund and a Forest Legacy program than in the fiscal 2009 law.

The chairman of the House subcommittee on Interior, Norman Dicks (D-Wash.), who effectively drafted the bill, said he was able to provide "generous allocation to our public lands" because of a spending cap for the bill from full committee chairman David Obey (D-Wis.) The \$32.3 billion cap is \$4.7 billion above the fiscal 2009 cap, not counting money from an economic stimulus law.

Before the House Appropriations Committee mark-up Dicks sharply criticized the Bush administration for underfunding conservation programs. "During the previous administration, the programs and activities funded by this subcommittee really suffered," he said. "The request for the Interior Department went down by 16 percent, the EPA by 29

percent, and the non-fire Forest Service accounts went down by 35 percent. Now we are beginning to address major shortfalls and invest in America's environment."

Ranking subcommittee Republican Mike Simpson (Idaho) faulted the majority for spending too much money. "Unfortunately, we often believe our commitment is measured by the amount of money we're spending rather than how we're spending it," he said. "Given the difficult economic times we are facing I'm also troubled by the unstable pattern of spending in this legislation. . . Every one of us ought to be as concerned about the impact excessive spending will have on our economy as about the impact climate change will have on our environment."

The House Appropriations Committee set the stage for the bill, approved by the Interior subcommittee June 10, by increasing a spending cap by \$4.7 billion, from \$27.6 billion in fiscal 2009 to \$32.3 billion in fiscal 2010.

The subcommittee and the Obama administration placed great emphasis on federal agency fire fighting. The subcommittee exceeded the total Obama administration fire-fighting request by more than \$160 million, on the bottom line.

But to get there it actually reduced a request for a contingency fund to fight emergency fires by \$107 million. The \$107 million was transferred into other fire accounts, mainly hazardous fuels, Dicks told reporters. The administration requested \$357 million for a contingency fund (\$282 Forest Service and \$75 million Interior) and the subcommittee provided \$250 million (\$200 million Forest Service and \$50 million Interior.)

Said Dicks, "We are taking some of that money for forest health programs. We're trying to see if we may be able to reduce the severity of fires." Simpson countered that the bill should meet the Obama request for emergency spending. "Given the \$4.7 billion increase in this bill I think we can do more to help the Forest Service," he said. "We can begin

by fully paying for the emergency \$357 million fund."

For the National Forest System the subcommittee exceeded an Obama request for flat funding and approved a \$58 million increase over fiscal 2009. The subcommittee also approved a \$50 million increase for Legacy Road and Trail Remediation for the Forest Service, bringing the total increase for the two areas to \$100 million.

In a related fire-fighting development a House-Senate conference committee reached agreement June 12 on an emergency fiscal 2009 appropriations bill (HR 2346) that includes \$250 million for emergency fire fighting. (The money is to be used in fiscal 2009; the \$250 million in the House committee appropriations bill would of course be used in fiscal 2010.)

The House approved the conference bill June 16 but the Senate may take more time. Some senators have issues with non-fire fighting provisions of the Iran and Afghanistan wars bill.

Here's what the House Appropriations subcommittee approved June 10:

* PARK SERVICE OPERATIONS: \$2.261 billion, or \$129 million more than a fiscal 2009 appropriation of \$2.132 billion, but \$5 million less than an administration request of \$2.266 billion;

* NPS CENTENNIAL CHALLENGE: \$25 million, or \$25 million more than a fiscal 2009 appropriation of zero and the same as an administration request of \$25 million (it should be noted that a big economic stimulus law - PL 111-5 of February 17 - includes hundreds of millions of dollars for construction and maintenance projects, much of which can be spent on Centennial Challenge projects);

* FEDERAL LWCF: \$212.4 million, or \$52 million more than a fiscal 2009 appropriation of \$160 million and \$13.4 million more than an administration request of \$199 million (the committee recommendation by agency is BLM - \$26.5 million; FWS - \$67.3 million; NPS - \$69.7 million; FS - \$36.8 million; and appraisals - \$12.1 million);

* STATE LWCF: \$30 million, an increase of \$10 million over the fiscal 2009 appropriation of \$20 million and the same as the Obama request;

* FOREST LEGACY: \$79.7 million, an increase of \$30.3 million over a fiscal 2009 appropriation of \$49.4 million but \$11.4 million less than an administration request of \$91.1 million;

* SAVE AMERICA'S TREASURES: \$30 million, an increase of \$10 million over a fiscal 2009 appropriation of \$20 million and a \$10 million increase over an administration request of \$20 million;

* PRESERVE AMERICA: \$6 million, or an increase of \$6 million over a fiscal 2009 appropriation of no money and \$3 million over an administration request of \$3 million;

* NATIONAL FOREST SYSTEM: \$1.565 billion, an increase of \$55 million over the fiscal 2009 appropriation of \$1.510 billion and an increase of \$58 million over the administration request of \$1.507 billion;

* FOREST LEGACY ROAD AND TRAIL REMEDIATION: \$100 million, an increase of \$50 million over a fiscal 2009 appropriation of \$50 million and a \$50 million increase over an administration request of \$50 million;

* FIRE FIGHTING FS: \$2.376 billion, an increase of \$132 million over the Obama administration request of \$2.244 billion. The total includes a contingency fund to fight emergency fires of \$200 million, or \$82 million less than the administration request for a \$282 million contingency fund;

* FIRE FIGHTING DOI: \$933 million, an increase of \$33 million over an administration request of \$900 million. The total includes a contingency fund to fight emergency fires of \$50 million, or \$25 million less than the administration request for a \$75 million contingency fund;

* NATIONAL LANDSCAPE CONSERVATION SYSTEM: \$74 million, an increase of \$7 million over the fiscal 2009 appropriation of \$67 million and \$2 million over the Obama administration request of \$72 million;

* NATIONAL WILDLIFE REFUGE SYSTEM: \$503 million, an increase of \$40 million over a fiscal 2009 appropriation of \$463 million and \$20 million over an administration request of \$483 million; and

* BLM MANAGEMENT: \$1.125 billion,

an increase of \$86 million over the fiscal 2009 appropriation of \$1.039 billion and a decrease of \$24 million from the administration request of \$1.148 billion.

Dicks getting serious about a new version of CARA-lite

The man who controls the park and recreation purse told *FPR* June 10 that he is investigating the possibility of writing legislation to insure full funding for the Land and Water Conservation Fund (LWCF.)

Rep. Norman Dicks (D-Wash.) said the Obama administration's proposal to increase LWCF spending over the next four years to its authorized level of \$900 million per year is a "great idea."

Dicks, chairman of the House subcommittee on Interior appropriations, said, "We're going to look at all options. I'm going to have the staff start meeting with authorizing committees and I'm going to meet with Rahall and Miller to see what options are available. We're already working on it." Rahall is House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) and Miller is Rep. George Miller (D-Calif.), a senior House Democrat who has long promoted LWCF.

Dicks, who spoke to us after his subcommittee marked up a fiscal year 2010 money bill, said appropriators may revisit a program they passed in fiscal 2001 called CARA-lite (named after a bigger authorization bill that died called the Conservation and Reinvestment Act.) CARA-lite provided some \$1.5 billion per year for land acquisition, wildlife conservation grants, forest legacy and other programs. But Congress stopped funding it after two years.

"We're going to look at CARA-lite again," Dicks said. "The original CARA-lite expired."

Secretary of Interior Ken Salazar has carried the banner this year for an administration initiative to secure full funding for LWCF. He has repeatedly recommended that Congress divert new

offshore oil and gas revenues to LWCF, and guarantee the money. Said Dicks, "That will be an option. The secretary has briefed me on that and it is intriguing."

Salazar's successor in the Senate, Mark Udall (D-Colo.), said June 16 he supports full funding for LWCF. At a hearing of the Senate subcommittee on National Parks that he chairs Udall said, "I'm editorializing but I think this calls for direct funding," as opposed to regular annual appropriations.

At the hearing on the Park Service's fiscal 2010 budget Udall heard Acting NPS Director Dan Wenk say that the Park Service alone has a prioritized land acquisition backlog of \$2 billion and perhaps another \$2 billion of yet-to-be prioritized acquisitions.

Responded Udall, "I think that is something we can't let continue to just bounce along because of the needs you outlined. And there are tremendous opportunities at the state-side level to get people of all backgrounds and ages into the outdoors. I am deeply committed to see if there is a way we can do that."

There is another school of thought that Congress this year should be more interested in throwing a lifeline to state park agencies that are being devastated by budget cuts than in reinventing LWCF. California is the poster boy of course. Gov. Arnold Schwarzenegger (R) late last month proposed massive state parks closures.

Schwarzenegger's two-step proposal would, first, on July 1 cut core funding for the state's 279 parks. That would save \$70 million. Second, over the next fiscal year he would gradually eliminate all funding for the park system. That could force the closure of more than 200 park units.

Said one influential park and rec player, "California is not unique. States are looking at reductions in operations budgets of 20, 25, 30 percent. It will be surprising if Congress isn't more interested in providing help

this fall than in land acquisitions."

Dicks, Rahall and Miller will also be up against Obama-inspired pay-as-you-go rules that would require new money to pay for a new LWCF program. Salazar's idea of using newly-authorized offshore oil and gas leasing to pay the freight may avoid that problem.

The offshore oil and gas royalties that already finance LWCF have over the last 40 years allocated nearly \$40 billion to LWCF, the Historic Preservation Fund and to the Reclamation Fund. But only about \$10 billion of that has been spent on LWCF - more on federal land acquisitions than on state grants.

CARA, sponsored chiefly by Reps. Don Young (R-Alaska) and Miller in the House a decade ago, would have put up more than \$3 billion per year and would have taken much of the spending responsibility for conservation away from appropriators. To head off Young and Miller the appropriators in fiscal 2001 came up with the less expensive CARA-lite that put them in control.

A fiscal year 2010 Obama administration budget request of May 7 breaks sharply with the Bush administration over conservation funding by proposing a \$425 million allocation for LWCF. The Obama administration calls the request a first step toward full funding of LWCF at \$900 million in four years.

On June 18 the House Appropriations Committee for the most part agreed with the fiscal 2010 administration request for LWCF, approving \$413 million, with \$30 million for state side grants. The subcommittee lumped a Forest Legacy program managed by the Forest Service under LWCF. So, the Democratic Congress and the Obama administration are apparently following the example of the Bush administration and using LWCF for non-LWCF purposes.

Senate panel endorses bill requiring wetland permits

After tempering it a bit, the Senate Environment and Public Works Committee June 18 approved legislation

(S 787) that would require a wetlands protection permit for most water bodies. The vote was 12-to-7.

The committee followed the lead of the number two ranking committee Democrat, Sen. Max Baucus (Mont.), and exempted from permit requirements converted croplands and waste treatment systems.

Despite the exemptions the Sierra Club said it supports the committee bill, but hopes for further strengthening. Ed Hopkins, director of the Sierra Club's Environmental Quality Program, said, "Today's compromise marks an important start to the process of reaffirming protections for many of our nation's vital water sources. However it does not ensure the permanent clean water protections that people, as well as fish, ducks and other wildlife require as clearly as the original bill. . . We will work to strengthen this bill as it moves forward to ensure that the full constitutional authority of Congress is used to protect our waters and to eliminate new statutory loopholes."

Ranking committee Republican James Inhofe (R-Okla.) complained that S 787 "seeks to require a federal permit for just about any activity that could affect virtually any body of water. In other words, the bill would extend the scope and reach of federal water jurisdiction beyond anything that ever existed under the Clean Water Act."

He added, "In fact, if Democrats have it their way, they would put under federal jurisdiction virtually anywhere water collects, including mudflats, sandflats, prairie potholes, roadside ditches and backyard ponds."

Private property rights groups led by the American Land Rights Association blasted the bill, calling it "essentially a limitless national land use control provision."

The path to the Senate committee vote was smoothed by an Obama administration call last month for action on wetlands legislation. Five top Obama administration aides May 20 called for action, but an administration letter

under the signature of Council on Environmental Quality Chair Nancy Sutley, doesn't specifically endorse S 787. It does set out this principle: "It is essential that the Clean Water Act provide broad protection of the Nation's waters, consistent with full Congressional authority under the Constitution."

The legislation targets a critical June 2006 Rapanos Supreme Court decision that, while confusing, left no doubt that only water bodies related to navigable waters should be regulated. The legislation would effectively reverse the Rapanos decision.

S 787 is simple. It says that the Corps of Engineers, working with EPA, must approve Section 404 permits under the Clean Water Act for all projects on waters of the United States. Those waters are defined in S 787 as "all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing, . . ."

Volunteer programs gain a bit of traction in the House

A House Appropriations subcommittee June 10 came up \$25 million short for the Obama administration's touted expansion of the Youth Conservation Corps.

The administration had recommended \$70 million for the Interior Department but the subcommittee on Interior and related agencies denied a \$30 million request for a new program called Educating Young Hunters and Anglers.

In approving a fiscal year 2010 spending bill the subcommittee did provide \$40 million for an Interior Department Youth and Careers in Nature program, as requested. And it threw in an extra \$5 million so the Forest Service could participate, for a total of \$45 million, a committee staff member said.

The subcommittee action is but one of many initiatives in Congress and the administration that could lead to the employment of as many as 250,000 young people by fiscal year 2017. The goal for fiscal 2010 is 88,000. Not all jobs would involve the Youth Conservation Corps; most would come from a broader Serve America law (PL 111-13 of April 21.)

But a principal piece of the Serve America program is a broad administration initiative to connect America's youth with the outdoors. "We are investing in an effort to connect thousands and thousands of young people to the outdoors," Patrick Fitzgerald, a senior legislative representative for the National Wildlife Federation, told us. "Kids are getting outdoors half as much as they did a couple of decades ago."

To emphasize the administration's commitment to a revitalized Youth Conservation Corps, first established in 1971, White House Advisor Valerie Jarrett joined Secretary of Interior Ken Salazar June 8 on the National Mall. At There Salazar signed an order establishing an Office of Youth in Natural Resources.

The position will not be ceremonial. Former NPS Director Bob Stanton will be in charge. Stanton is also serving as the deputy assistant secretary of Interior for Policy Management and Budget.

The fiscal 2010 money is supplemental to ongoing job stimulus spending (PL 111-5 of February 17) that includes the Youth Conservation Corps as an eligible entity for money from several programs. The Interior Department received \$2 billion in that bill. The measure directs "the Secretary of the Interior and the Secretary of Agriculture (to) utilize, where practicable, the Public Lands Corps, Youth Conservation Corps, Student Conservation Association, Job Corps and other related partnerships with Federal, State, local, tribal or non-profit groups that serve young adults."

In addition the Department of Labor portion of the stimulus law allocated \$1.2 billion in grants to states for youth activities, including summer jobs.

The Interior Department's fiscal 2010 budget proposal is more tightly focused on the outdoors and the Youth Conservation Corps. The House committee did fund one half of that - the Youth and Careers in Nature - for \$40 million, or double the fiscal 2009 appropriation. The money would be used by the four land management agencies in Interior. In addition the Forest Service would receive \$5 million.

The Interior agencies are the Park Service (\$15.4 million), the Fish and Wildlife Service (\$12.7 million), the Bureau of Land Management (\$7.6 million) and the U.S. Geological Survey (\$4.3 million.)

The Youth and Careers in Nature money would be used by the agencies to beef up existing programs that encourage young people to get outdoors and to seek natural resource careers.

For the other half of its youth outdoor program the Interior Department asked for \$30 million for Educating Young Hunters and Anglers. The committee approved no money.

If appropriated the hunters and anglers money would be used to help states, territories and Indian tribes establish programs to educate hunters, fishermen and wildlife managers.

In still another related development the House Natural Resources Committee June 10 approved a bill (HR 1612) that would rename an existing Public Lands Corps as the Public Lands Service Corps and revise the detail of agency missions.

The bill, introduced by Rep. Raúl Grijalva (R-Ariz.), would affect job corps type programs run by NPS, the Bureau of Land Management, the Fish and Wildlife Service, the Forest Service, and the National Oceanic and Atmospheric Administration in the Department of Commerce.

The National Wildlife Federation's Fitzgerald said the Grijalva bill "is not specifically tied into the Interior Department budget proposals (Educating Young Hunters and Anglers and Youth and Careers in Nature) but is related to them in that it is designed to help young people become interested in the outdoors and work in the outdoors."

Appropriators pony up \$25 million for NPS Challenge

Rep. Norman Dicks (D-Wash.) threw \$25 million into a fiscal year 2010 appropriations bill June 10 for a Park Service Centennial Challenge program, but he said it is not his responsibility to see the program is fully funded. Program supporters are asking for \$100 million per year.

"We are hoping the authorizers (authorizing committees) will finally come up with something," Dicks, chairman of the House subcommittee on Interior appropriations, told *FPR*. "That's an authorizing issue."

But, he said, "We keep putting (\$25 million) in there because there is so much money that has already been raised in the private sector we want to match that to keep the interest going."

The House Appropriations subcommittee on Interior and related agencies June 10 approved the \$25 million as part of a fiscal 2010 appropriations bill for the Interior Department and related agencies. The measure was before the full committee at press time.

As we reported last month, the Obama administration's fiscal year 2010 budget doesn't mention the Park Service Centennial Challenge program, substituting an initiative called Protection of Treasured Landscapes.

Despite no mention of the \$2 billion Centennial Challenge program, the budget does recommend a Challenge-like appropriation of \$25 million, to be matched by a like amount of non-federal donations. That is the \$25 million Dicks put into a fiscal 2010 appropriations bill.

To operate and maintain the National Park System both the administration and Dicks would provide an \$100 million increase. Some of that money by definition could be used to prepare the parks for a 2016 Centennial of the system.

In addition, while a huge new economic stimulus law (PL 111-5 of May 17) didn't mention a Centennial Challenge program, some of the money in it can be used by NPS to spruce up the system.

Before NPS spends the \$25 million that the House appropriators approved June 18 it will ask partner groups if they are still willing to contribute the \$300 they offered in 2008, Acting NPS Director Dan Wenk told the Senate subcommittee on National Parks June 16.

"Through our prioritization process we will have to re-ask the question - as you know some of the economic landscape has changed since that time - and they may or may not be in the same position as they were in 2008," Wenk said at a hearing on the fiscal 2010 Park Service budget request.

"We will go out with a call once again to our partners for those projects to see if the funding is available and see if the design work and the environmental compliance has been done," he said.

Separately, House Democratic leaders intend to reintroduce last year's challenge bill this year, or a variation thereof. A leading House sponsor, Rep. Raúl Grijalva (D-Ariz.), told us earlier this year that House Natural Resources Committee Democrats will reintroduce a version of the bill. Grijalva chairs the House subcommittee on National Parks, Forests and Public Lands.

It is also understood that his boss, House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.), is committed to bringing the bill back. Finally, the lead Senate sponsor of a counterpart bill last year, then Sen. Ken Salazar (D-Colo.), reportedly will support the initiative in his job as Secretary of Interior.

The idea of the Centennial Challenge program does enjoy some Republican support because Salazar's predecessor as secretary of Interior, Dirk Kempthorne, was the godfather of the program. Thus it also was supported by the Bush administration.

In February more than 25 environmental groups endorsed an appropriation of \$100 million for the program for fiscal year 2010. The groups, in releasing a Green Budget, said, "The National Park Service will be 100 years old in 2016. We believe Congress should pass legislation to invest funding above the agency's budget to restore and reinvigorate our parks, seashores, heritage areas, and monuments."

The old Salazar bill included a 10-year, \$2 billion Centennial Challenge program. It asked Congress to provide up to \$100 million per year to match a like amount of nonfederal contributions to upgrade the national parks.

Feds promise to keep the heat on artifact thieves

The Obama administration last week said it intends to crack down on those who steal artifacts from the public lands, and those who traffic in the stolen artifacts. As proof, the administration announced indictments against 24 individuals for stealing or dealing in archaeological resources.

"These archaeological treasures are precious and protecting them preserves a rich history and heritage," said Deputy Attorney General David W. Ogden. "That is why the Justice Department will use all of its tools to vigorously enforce the laws designed to safeguard the cultural heritage of Native Americans."

The FBI, the Bureau of Land Management (BLM), and state and local governments announced the indictments in the Four Corners region of the West where Colorado, Utah, Arizona and New Mexico meet. The government charged the 24 defendants with violating the Archaeological Resources Protection Act

(ARPA) and the Native American Graves Protection and Repatriation Act (NAGPRA.)

The ARPA bars the excavation and removal of archaeological artifacts made by humans. NAGPRA requires the return to Native Americans of any artifacts removed from ancestral lands.

The undercover operation was made public June 10. It represents the largest investigation of archaeological and cultural artifact thefts in the country's history, involving 256 items worth \$335,685.

But interest groups that seek to protect the rich trove of archaeological resources on public lands in the West say the government must do much more. "Unfortunately, theft is just one of the many threats to cultural resources on America's federal public lands," said Richard Moe, president of the National Trust for Historic Preservation. "Today's announcement is a positive step towards protecting and preserving these resources for the enjoyment of future generations, but we need additional funding to bolster law enforcement efforts across our vast network of public lands."

The Four Corners area was settled by the Anasazi Indians. Their culture began around the time of Jesus Christ and peaked between 1050 and 1125 A.D. The Anasazi population migrated to an area now in Mexico around 1275. Descendants of the Anasazi people include Hopis living in Arizona, and Zunis, Acomas and Pueblos of New Mexico.

Most of those indicted after the undercover operation lived in the southern Utah town of Blanding. A few were from Colorado and one was from New Mexico. The defendants, who range in age from 30 to 78, face up to 10 years in prison.

While Obama administration officials took credit for the indictments, the undercover operation actually began in 2006 during the Bush administration. And the key move in setting up a sting operation involving an undercover

"dealer" who bought artifacts, began in early 2007, again in the Bush Administration.

Still and all, Secretary of the Interior Ken Salazar said the Obama administration will pursue vigorously violators of ARPA and NAGPRA. "Let this case serve notice to anyone who is considering breaking these laws and trampling our nation's cultural heritage that the Bureau of Land Management, the Department of Justice, and the federal government will track you down and bring you to justice," he said at a press briefing in Salt Lake City.

"As these alleged criminals are prosecuted and as federal agents continue to hunt down wrong doers, BLM cultural resources staff will work to ensure the proper recovery, identification, repatriation, and storage of the artifacts that have been confiscated," he added.

Arizonans oppose uranium mining ban near Grand Canyon

Former Democratic Sen. Dennis DeConcini (Ariz.) joined his current Senate Republican colleagues from Arizona this month in opposing the withdrawal of more than one million acres of land from uranium mining near Grand Canyon National Park.

In a letter to Secretary of Interior Ken Salazar, DeConcini repeated the argument of current Arizona Sens. John Kyl (R) and John McCain (R) against withdrawal of the land: It would violate an understanding the Arizona Congressional delegation reached in 1984 on statewide wilderness legislation.

Said DeConcini in a June 5 letter cosigned by current Sen. Orrin Hatch (R-Utah), "We believe strongly that the recent calls for a withdrawal of the area and last year's questionable House Natural Resources Committee 'Emergency' Resolution violate the spirit of that 1983/1984 agreement."

DeConcini and Hatch asked Salazar to declare the lands open for mining and to request a National Academy of Sci-

ences/National Research Council review of the situation.

For their part Kyl and McCain wrote Rep. Raúl M. Grijalva (D-Ariz.) June 8 in opposition to Grijalva's legislation (HR 644) that would withdraw the land permanently. Grijalva also sponsored an emergency withdrawal resolution that the House Natural Resources Committee approved on June 25, 2008, to withdraw the million acres.

Kyl and McCain said the legislation (and the withdrawal resolution) would violate the understanding between the Arizona and Utah Congressional delegations struck in 1984.

That understanding effectively traded more than one million acres of Forest Service and BLM wilderness for the opportunity to mine uranium on lands released from wilderness study. The senators said the lands were released "with the full understanding and intention that this action would allow uranium mining on the Arizona Strip and the Kaibab National Forest."

The Bush administration on Dec. 5, 2008, refused to go along with the House committee's emergency withdrawal. The administration said the withdrawal under Section 204(e) of the Federal Land Policy and Management Act of 1976 (FLPMA) is illegal.

Section 204(e), if it is legal, authorizes either the House Natural Resources Committee or the Senate Energy Committee to authorize emergency withdrawals for up to three years.

Environmentalists have filed a major lawsuit to force the government to make the withdrawal. But McCain and Kyle said the emergency withdrawal and the Grijalva bill are taking a toll on mining in the Arizona Strip.

Besides, said DeConcini and Hatch, uranium mining would not harm Grand Canyon National Park. "It is important to note that research conducted by (the U.S. Geological Survey) and preliminary findings by the University of Arizona confirm that uranium exploration and

mining pose no threat to the Grand Canyon watershed or to the Park," they wrote.

Environmentalists argue in their litigation that the withdrawal order not only bars future mining claims, but also forbids exploration activities on existing claims. Their amended suit says, "Plaintiffs seek declaratory relief that Defendants violated FLPMA Section 204(e), 43 U.S.C. § 1714(e), and 43 C.F.R. § 2310.5, by refusing to withdraw over one million acres of federal lands from mineral location and entry as required by the Emergency Resolution, and by authorizing or allowing uranium exploration activities within the area of the required mineral withdrawal."

Grijalva on January 22 introduced HR 644 that would permanently withdraw the 1 million acres. The bill would have the Interior Department withdraw 1,068,908 acres near Grand Canyon from (1) all entry under general public land laws, (2) from hard rock mining and (3) from energy leasing. The law would protect valid existing rights.

CBO offers big fund estimate from climate change bill

The Congressional Budget Office (CBO) June 8 estimated that a climate change bill (HR 2454) now approaching the House floor would produce a huge \$845 billion in revenues for the government over the next decade.

That estimate takes into account major exemptions in the bill for the right to produce carbon by various interests, such as automobile manufacturers. The estimate is also \$200 billion more than the Obama administration budget anticipated.

The numbers matter to park and recreation programs because a Natural Resources Climate Adaptation Fund authorized by HR 2454 would receive one percent of revenues and would relay the money to the programs.

If there were a direct dollar-to-dollar payout each year (and there wouldn't be because the program would be

phased in), the fund would receive more than \$530 million per year.

CBO, after reviewing all details of the massive 900-page bill and waving a magic wand, said that HR 2454 would produce for the Natural Resources Climate Adaptation Fund "\$5.3 billion" over the period fiscal year 2010 to 2019. Again, because the program would be phased in the bill would produce less than the average \$530 million per year early on and considerably more later in the decade.

Says the relevant CBO paragraph: "\$5.3 billion would be credited to the Natural Resources Climate Change Adaptation Fund and used to support adaptation activities, such as activities to assist fish and wildlife in adapting to the impacts of climate change, by various federal agencies, including the Department of the Interior, the Department of Commerce, and EPA." The CBO report is available at <http://www.cbo.gov/>.

Of the money available in the fund the House Energy Committee bill says states should receive 38.5 percent for climate adaptation activities, the Interior Department should receive 25 percent for a raft of programs run by land management agencies, the Land and Water Conservation Fund (LWCF) should receive 12 percent, a state wildlife conservation grant program should receive one percent, the Forest Service five percent, EPA five percent, the Corps of Engineers 7.5 percent and the Department of Commerce 7 percent.

So, assuming that the bill produced \$530 million in one year for the fund, LWCF would receive five percent, or some \$66 million.

The House Energy and Commerce Committee May 21 approved HR 2454. The House is expected to take it up as early as next week.

The Senate will probably be an even tougher sell than the House because of the 60 votes needed to consider a bill. For instance, on June 6, 2008, the Senate refused to take up a predecessor climate bill in a 48-to-36 vote, well short of the 60 votes needed.

Obama throws highway curve at Oberstar: Delay new law

The Obama administration June 17 told its Democratic allies on Capitol Hill it will seek a temporary 18-month extension of the existing surface transportation law, with some embellishments.

The administration proposal undercuts an attempt by House Transportation Committee Chairman James Oberstar (D-Minn.) to fashion a six-year, \$500 billion surface transportation law by this fall. He immediately called the administration recommendation "unacceptable."

Despite the administration proposal, laid out to the Congressmen by Secretary of Transportation Ray LaHood, Oberstar went ahead June 18 and described his plans for such a multi-year law. The Oberstar proposal would shake up the provisions of the current law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), combining 108 existing programs into for programs.

But the chances of a multi-year being enacted this year were dimmed not just by the administration recommendation but also by the willingness of the Oberstar's Senate counterpart to embrace it.

Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) endorsed the administration plan. "The White House proposal to replenish the Trust Fund until 2011 will keep the recovery and job creation moving forward and give us the necessary time to pass a more comprehensive multi-year transportation authorization bill with stable and reliable funding sources," she said.

So the main game in town is almost certain to be the administration proposal that would add \$13 billion-to-\$18 billion to the funding levels in SAFETEA-LU. That should be enough to keep park and recreation funding programs at or above existing levels of more than \$1 billion per year.

The extra money is needed because gasoline taxes that finance the Highway Trust Fund that pays for SAFETEA-LU are dwindling. The Office of Management and Budget says the trust fund will run out of money August 21.

There is a major political implication too. The administration is under great pressure to reduce federal spending because of the huge federal expenditures stemming from a new economic stimulus law, an investment firm bailout law, a proposed climate change law and a proposed national health program. Raising gas taxes at such a time could be political undoable.

When it is introduced Oberstar would completely revise the surface transportation template by consolidating 108 existing programs into four main areas: (1) highways and bridges, (2) safety, (3) more choices and (4) less congestion. The bill would also include 6,800 earmarks, Oberstar told the press this week.

Oberstar at this time is not proposing any methods to pay for the bill. The two main possibilities are a huge increase in the 18.3 cents per gallon gasoline tax and charging fees based on miles driven.

Park and rec programs in SAFETEA-LU include transportation enhancements, recreational trails, scenic byways, federal lands roads, Safe Routes to School and hundreds of earmarks for such things as trails in and near transportation projects.

Notes

FS leadership shake-up looms.

Forest Service Chief Gail Kimbell will retire about the first of July, the Department of Agriculture announced June 18. In that the chief's job doesn't require Senate confirmation there had been some calls for the Obama administration to keep Kimbell in place. But her departure will deal the administration a double blow because its nominee for under secretary of Agriculture in charge of the Forest Service, Homer Lee

Wilkes, withdrew his name June 8 for personal reasons. Wilkes is a veteran of the Natural Resources Conservation Service from Mississippi and is not an expert on forest policy. While the Forest Service will be without either political or administrative leadership, the administration will have an opportunity to shape its own team. Colorado Department of Natural Resources Director Harris Sherman is reportedly a contender for Wilkes's position. In the Bush administration and the Clinton administration the under secretaries of Agriculture (Mark Rey and James Lyons respectively) were forest policy experts. Rey came from the timber industry and Lyons from the conservation community.

Hamilton chosen to head FWS. The White House said June 9 President Obama will nominate the Fish and Wildlife Service's (FWS's) Southeast Director Sam Hamilton as the new agency director. Hamilton is a 30-year FWS veteran. His nomination requires Senate approval. In praising the nomination the Interior Department said Hamilton among other things "has provided leadership and oversight to the department's restoration work in the Everglades." But one environmental group immediately questioned the nomination because it said Hamilton did not work hard enough to prevent political interference with scientific decisions in the Bush administration. The Public Employees for Environmental Responsibility (PEER) said that in a 2005 survey nearly half of FWS employees complained of political interference, not just in the Southeast but nationally. Said PEER Executive Director Jeff Ruch, "Where was Sam Hamilton when all this was going on? Why would anyone expect Mr. Hamilton to protect scientists when he previously has not?" Other conservationists praised the nomination. Said Dr. Alan Wentz, senior group manager for Conservation, Communications and Marketing for Ducks Unlimited, "Sam Hamilton is the consummate professional. He has accomplished great things for wildlife in his many years of work with the Fish and Wildlife Service. I am delighted that he has been selected for this critical position." Separately, Assistant Secretary of the Interior for Fish and Wildlife and Parks Tom Strickland announced June 11 that

Michael Bean of the Environmental Defense Fund will join his team. Bean, a noted expert on endangered species, joins Deputy Assistant Secretaries Will Shafroth and Jane Lyder as aides to Strickland.

Abbey chosen to head BLM. President Obama June 10 said he intends to nominate Bob Abbey, former BLM Nevada State Director, as BLM director. Senate Majority Leader Harry Reid (D-Nev.) has been telling Nevada newspapers for several weeks that Abbey had the inside line for the job. Reid said Nevada has a "friend" in the nominee-to-be. Abbey served as BLM Nevada State Director from 1999 to 2005. His nomination requires Senate confirmation. Abbey is currently a partner in a private consulting firm called Abbey, Stubbs, & Ford, LLC with offices in Las Vegas and Reno. Said George Lea, president of the Public Lands Foundation, an alliance of former and present BLM employees, "We have been pounding the table for more than 20 years hoping someone would listen to the importance of having a professional natural resource manager as BLM director and so it looks like we have been heard. Bob will do an excellent job and the BLM staff here are ecstatic about him."

Flight 93 negotiations continue. The Park Service last week was unable to meet Secretary of Interior Ken Salazar's final deadline for negotiating a deal on the acquisition of land for a Flight 93 memorial in Pennsylvania. But acting NPS Director Dan Wenk said June 16 that NPS and the landowners are continuing to negotiate and are making progress. Wenk told the Senate Energy Committee's subcommittee on National parks, "I'm pleased to say we've made significant progress on reaching a negotiated settlement with those landowners that would in effect negotiate with us. I believe we are very close to an agreement in principle." Wenk said the negotiations made more progress in the last week than over the last two years. But he raised the possibility the Park Service might have to begin condemnation proceedings. Subcommittee Chairman Mark Udall (D-Colo.) and ranking minority member Richard Burr (N.C.) warned Wenk to use eminent domain authority only as a last resort. Salazar said he wants a

deal in place before the 10th anniversary of the September 11, 2001 crash in Somerset County. Wenk said families of the victims had acquired 1,000 acres for the site and transferred it to the Park Service. NPS is still trying to acquire a little less than 500 acres from two landowners, Wenk said. Those still-to-be-acquired lands, however, are on the actual crash site, he said.

Statue of Liberty: Reserve now.

The Park Service began taking reservation June 13 to visit the crown of the Statue of Liberty in New York Harbor. A limited number of visitors will be allowed into the crown beginning July 4. The Bush administration closed the crown and access to it for safety reasons after the Sept. 11, 2001, terrorist attacks. A narrow, 168-step double-helix spiral staircase provides the only access to the crown. But the Obama administration has committed itself to an expensive and, possibly, risky goal of opening the crown to the public. For the next two years, beginning on the Fourth of July, the crown will be open to 30 escorted visitors per hour. When the two years are up, the Park Service will shut off access for the crown for another two years for a major reconstruction of the interior of the statue. The reconstruction will cost more than \$30 million, a Park Service spokesman at the Statue of Liberty told us.

D-day memorial rescue sought.

Virginia Sens. Mark Warner (D) and James Webb (D) introduced legislation June 8 that would have the Park Service study the advisability of designating a National D-day Memorial in Bedford, Va., as a unit of the National Park System. The memorial is currently operated by a non-profit foundation but the foundation is unable to raise enough money to keep it open through the end of the year. Annual expenses run around \$2 million per year and the foundation takes in less than \$600,000. The memorial is located in Bedford because 21 of 35 soldiers from the town of 3,200 died in combat during and just after D-Day in June 1944.

Mendez nomination at FHWA moves.

The Senate Environment and Public Works Committee June 10 approved by voice vote

the nomination of Victor M. Mendez as administrator for the Federal Highway Administration (FHWA.) Mendez has served as director of the Arizona Department of Transportation since 2001 and in 2007 doubled as president of the American Association of State Highway and Transportation Officials. No word on any "holds" against his nomination on the Senate floor.

Bill would aid commercial filmers.

Sens. James Inhofe (R-Okla.) and James Tester (D-Mont.) introduced legislation (S 1241) June 11 that would allow small film crews to pay a \$200 per year fee to film on public lands. The bill would exempt film crews of five or less employees from paying a more rigorous daily fee. Inhofe said Congress should grant the exemption because wildlife photographers, for instance, don't know how long it will take to set up shootings. Rep. Dan Boren (D-Okla.) and five other House members have introduced an identical House bill (HR 2031.) The \$200 fee would apply to lands managed by the Department of Agriculture and the Department of Interior. Under existing law (PL 106-206 of May 26, 2000) the agencies establish a fee based on the number of days of shooting, the size of a crew and the amount of equipment the crew uses.

Bill favors some horses in wilderness.

Rep. Doug Lamborn (R-Colo.) introduced legislation June 10 that would authorize "recreation organizations" to cross wilderness areas with a group of horseback riders. The crossing would have to be conducted within one day and federal agencies could restrict crossings of wilderness areas to fewer than 10 per year. The use of pack horses in wilderness areas has been a sore spot politically and legally for a long time. On May 16, 2006, the House approved legislation that would protect packhorse use by outfitters on federal lands by requiring an environmental review before land managers could reduce the use. The bill died in the Senate. In a major lawsuit, *High Sierra Hikers v. Blackwell*, No. 02-15504 the Ninth U.S. Circuit Court of Appeals on Aug. 25, 2004, held that federal agencies erred in granting permits for commercial packhorse use without preparing environ-

mental documentation first. The Bush administration opposed the bill because it says the mandatory NEPA review is

redundant because any change in policy must be made via the planning process, which requires an environmental review.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Appropriations fiscal 2010 No bill number yet	House committee approved June 18.	Would provide broad increases for park and rec programs.
Appropriations fiscal 2009 emergency HR 2346 (Obey)	House-Senate conferees agreed on final bill June 12.	Would provide \$250 million for emergency fire assistance.
Congressional Budget 2010 H Con Res 85 (Spratt) S Con Res 13 (Conrad)	House approved April 2. Senate approved April 2.	Would allow for increased natural resources spending.
Appropriations Stimulus HR 1 (Obey)	President Obama signed into law Feb. 17 as PL 111-5.	Allocates some \$4 billion to federal land management agencies to help revive the economy.
Appropriations 2009 (DoI, FS, Corps, Transportation, etc.) HR 1105 (Obey)	President Obama signed into law March 11 as PL 111-8.	Provides modest increases for most park and rec programs.
Omnibus Lands Bill S 22 (Bingaman) HR 146 (Holt)	President signed into law March 30 as PL 111-11.	Includes 160+ individual bills, including NLCS, new national parks.
National Landscape Conservation System HR 404 (Grijalva) S 22 (previous item)	Grijalva introduced Jan. 9. Included in omnibus (above.)	Gives NLCS official designation by Congress.
Grand Canyon withdrawal HR 644 (Grijalva)	Grijalva introduced Jan 22.	Would withdraw 1 million acres of federal land near Grand Canyon NP to prevent uranium mining.
Surface Transportation HR 1329 (Blumenauer) S 575 (Carper) S 1036 (Rockefeller)	Blumenauer introduced March 5. Carper introduced March 11. Rockefeller introduced May 12	Blumenauer would establish a piece of a surface transportation law with climate change money. Rockefeller would establish broad goals for law.
FLREA (rec fee law) repeal S 868 (Baucus)	Baucus introduced April 22.	Would repeal the comprehensive federal rec fee law.
Fire suppression HR 1404 (Rahall) S 561 (Bingaman)	House approved March 24. Bingaman introduced March 10.	Would establish an emergency fire-fighting fund to limit borrowing from line programs.
Ski area uses S 607 (M. Udall)	Udall introduced March 17.	Would specify that ski resorts on national forest land may allow non-skiing recreation uses.
Weapons in parks HR 1684 (Hastings) S 816 (Crapo) HR 627 (Maloney)	President Obama signed into law May 22 as part of credit card law (PL 111-24.)	Directs Interior to allow concealed weapons in national parks, refuges.
Wetlands S 787 (Feingold)	Senate committee approved June 18.	Would require Section 404 permits for most projects in wetlands.