

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

Volume 31 Number 5, March 8, 2013

In this issue. . .

Budget cuts may be here to stay.

At least through September in full-year FY 2013 spending bill. House-passed version would keep \$85B in sequestration reductions. Severity of cuts debated.... Page 1

Y'store snowmobile plan applauded.

But retirees fault equivalence between 7 snowmobiles and one snowcoach. Pols endorse.... Page 4

Murkowski still cool to Jewell.

At first Senate confirmation hearing, because of Alaska road. Wyden backs rec importance.. Page 5

Court keeps oystering in Reyes.

Appeals panel delays DOI decision to close oyster farm for several months. Casts some doubt... Page 6

Floridians back Everglades work.

Delegation leaders introduce bill to authorize \$1.4B in projects. WRDA may be key to success.. Page 8

State parks money options studied.

New report from RFF assesses four sets of money sources. None perfect. Pluses and minuses... Page 9

Jones opposes Hatteras ORV rule.

Rep. introduces bill to reverse NPS plan reducing ORV use... Page 10

DOI reviewing 'blueways' complaint.

Assessing GOP request to rescind program. Hill wants role... Page 11

Notes..... Page 12

Boxscore of Legislation..... Page 14

House approves money bill, with sequestration included

Congress is moving rapidly - or as at least as rapidly as it is able - to complete a fiscal year 2013 appropriations bill, with \$85 billion in sequestration reductions built in.

That is, the House March 6 approved a spending bill (HR 933) for all federal agencies that (1) begins with fiscal 2012 spending levels and (2) then imposes the \$85 billion in almost across-the-board sequestration reductions.

That's a five percent hit for most programs compared to fiscal 2012 spread out over the entire fiscal year. But because agencies in the first six months of fiscal 2013 essentially operated at fiscal 2012 levels, the Office of Management and Budget (OMB) says the across-the-board domestic spending reductions will actually run at nine percent through September.

But wait, Senate Democrats are expected to attempt to restore some of the sequestration reductions when they write a fiscal 2013 spending bill. The Senate Appropriations Committee may begin work on a bill next week.

The House in one area - wildland fire fighting - actually put up more money in HR 933 for the Forest Service than Congress allocated in fiscal 2012. It approved \$2.44 billion compared to \$2.387 billion in fiscal 2012. And it threw in an extra \$40 million to compensate pay back operations programs that were raided for fire fighting in fiscal 2012. HR 933 would keep Interior Department fire fighting totals about the same as fiscal 2012, but without the sequestration.

In a separate area - surface

transportation - HR 933 would not provide enough money to pay for the new roads law, Moving Ahead for Progress in the 21st Century Act (MAP-21), say senior Senate Democrats.

Senate Environment and Public Works Committee Chair Barbara Boxer (D-Calif.) and two of her subcommittee castigated Speaker of the House John Boehner (R-Ohio) in a March 5 letter.

"Instead of preserving the funding levels authorized in MAP-21, this continuing resolution would apply an across-the-board reduction to the funding levels included in MAP-21 that would result in transportation spending levels even lower than those enacted in FY 2012, and in certain cases would apply drastic reductions to highway safety programs," they wrote. Again, the Senate Appropriations Committee may attempt to restore those cuts.

As Boxer noted, the transportation reduction results from the application of the sequester to MAP-21 spending, which would normally be exempted from such appropriations actions because it is paid for in large part by gasoline taxes paid into a Highway Trust Fund.

Although Senate Democrats will contest the sequestration, the Obama administration and Congressional Democrats are pretty much resigned to the \$85 billion in sequestration reductions for the entire fiscal 2013.

The new House and Senate appropriations bills would cover the period from March 27 through September 30. Congress already approved six-months worth of spending for the first half of fiscal 2013 in a previous continuing resolution (PL 112-175 of Sept. 28, 2012). Again, that was at approximately the fiscal 2012 level.

When the House and Senate first began working on full-year appropriations bills last summer, the House would have sharply reduced park and recreation funding and the Senate would have essentially extended fiscal 2012 levels. But those efforts are out the window now.

Although Congressional Republicans have asserted that the Obama administration overestimates the impact of sequestration, federal agencies continue to itemize broad and deep damage. The \$85 billion across-the-board sequestration began March 1.

The net result of the new appropriations actions then, is to extend the sequestration throughout the fiscal year, which ends September 30. That means furloughs are increasingly likely for federal land management agency employees.

For one thing NPS Director Jon Jarvis predicted February 26 that thousands of Interior Department employees - not just Park Service employees - would be furloughed. "Across the Department of the Interior, it is expected that thousands of permanent employees will be furloughed for up to 22 workdays," he said in a memo to all employees. "In the unfortunate event it comes to furloughs, all affected employees will be provided at least 30 days notice or in accordance with the designated representative collective bargaining agreement, as appropriate."

National Park Service concessioners predicted gateway communities would be hit hard. "Spending cuts being considered by the National Park Service to meet sequestration requirements could force reduced operations and even closures by concessioners and reduce the revenue currently generated for the parks by visitors and concessioners," said the National Parks Hospitality Association.

OMB said that because of the sequestration the Park Service will have \$218 million less to spend in fiscal 2013 than in fiscal 2012. The Land and Water Conservation Fund alone will be reduced by \$26 million. Although OMB made that projection before the House approved a fiscal 2013 spending bill, the House action essentially confirmed those cuts.

The Forest Service will be hit even harder with cuts of \$129 million for the National Forest System and \$34 million for Capital Improvements.

Congressional Republicans charge that the Obama administration and its agency heads are exaggerating. For instance, Sen. Tom Coburn (R-Okla.) has said repeatedly that agencies can either (1) cut the fat or (2) shuffle money around to accommodate the sequestration.

Inhofe told *Fox News Sunday* last week, "There are easy ways to cut this money that the American people will never feel. The crisis is made up - it's been created. We see all these claims about what a tragedy it's going to be. . . They have plenty of flexibility in terms of discretion on how they spend money."

Coburn did not mention specifically outdoor programs, but he has posted copious documents at his website detailing what he says is excessive federal spending, <http://www.coburn.senate.gov/public/>.

The Department of Agriculture described these impacts of the sequestration to the Forest Service in a letter to the Senate Appropriations Committee last month, "The agency would close up to 670 public developed recreation sites out of 19,000 sites, such as campgrounds, picnic areas, and trailheads. Closing this many recreation sites would reduce an estimated 1.6 million recreation visits across the country, thereby harming the economies of remote rural communities that depend on recreationists' economic activity, and eliminating convenient vacation opportunities for rural residents."

The Department of Interior told the committee in its own letter, "The public should be prepared for reduced hours and services provided by Interior's 398 national parks, 561 refuges, and over 258 public land units." The department said the agencies would have to close 128 wildlife refuges, cut back on seasonal employees and "Reduce hours of operation for visitor centers, shorten seasons, and possibly close camping, hiking, and other recreational areas when there is insufficient staff to ensure the protection of visitors, employees, and resources."

According to Sen. Dianne Feinstein (D-Calif.), the Corps of Engineers must also reduce services substantially. "With sequestration, the Corps would likely have to close 57 recreation areas and partially close 186 recreation sites," she said on the Senate floor February 27. "There would also be no funding for 52 ongoing studies that were funded in FY 2012, 65 construction projects that were funded in FY 2012, and 43 dredging projects that were funded in FY 2012."

For the month of March the Interior Department anticipates no furloughs of permanent employees. Said Jarvis at a press conference on sequestration held by Secretary of Interior Ken Salazar February 2, "Anyone who is a permanent employee who might be furloughed they must get a 30-day notice and so there is not going to be immediate furloughs of permanent employees. We are evaluating that right now and working with (human resources)."

Similarly, an undated message from Forest Service Chief Tom Tidwell said, "While we are the Forest Service will receive the same cuts as other agencies across government, because of the way we manage our budget we have flexibility and should be able to avoid furlough if sequestration occurs. We will use a combination of efforts including cutting back on contracts and purchasing, delaying filling vacancies, and reducing our seasonal employment in order to manage the budget reduction."

But if the sequestration is not revoked this month in the continuing resolution, and it doesn't look like it will be, the Interior Department furloughs and the rec area closures will begin to flow.

In Jarvis's February 26 memo to employees he addressed the economic impacts of the sequestration, as well as the impacts on employees. "Reduced services and access will make families planning summer vacations think twice about coming to a national park," he said. "A drop in visitation could have devastating effects on the economies of gateway communities who depend on visitor spending and shut down park

lodging, food, and other services provided by concessioners who support 25,000 jobs."

The National Parks Conservation Association said some 300 businesses could be hurt by the sequestration. The association quoted Luke D. Hyde, owner of the Calhoun Country Inn near Great Smoky Mountains National Park in Bryson City, N.C., "The basic truth is that gateway community businesses depend on our national parks being open and properly funded. Our economy depends on their economy."

Here are some important dates in the overall budget battle:

Sequestration deadline, February 28: The underlying budget sequestration law (PL 112-25 of Aug. 2, 2011) mandated \$85 billion in budget reductions as of this date. OMB translated that into nine percent cuts for the rest of fiscal 2013, or five percent overall for the entire fiscal year.

FY 2013 appropriations expire, March 27: A first-half fiscal 2013 spending resolution keeps the federal government in money through March 27, meaning an additional appropriations action will be needed by then, presumably with the sequestration reductions if no deal has been reached.

FY 2014 budget request, no date: OMB says it can't meet a deadline of February 4 for presentation of the fiscal 2014 budget request, but has offered no date certain for its submittal.

Congressional budget, April 15 deadline: The House almost always prepares a Congressional budget, but the Senate has not for the last four years. Both bodies say they will prepare budgets this year.

Debt ceiling, May 18: President Obama signed a law (PL 113-1) January 6 that increases the federal budget ceiling until May 18. House Republican leaders had been demanding major budget cuts in exchange for an increase in the budget ceiling, and may do so again in May.

Yellowstone snowmobile plan applauded; retirees worry

Yellowstone National Park offered still another proposal for snowmobile use February 22, and most parties praised it. However, Park Service retirees raised a note of caution about the number of snowmobiles allowed per day.

The proposal - in the form of a final EIS and a final plan - would authorize up to 50 groups of snowmobiles daily to enter the park with up to seven vehicles in a group and up to 60 snowcoaches. That's a total of 110 "transportation events." In addition both snowmobiles and snowcoaches would have to pass tougher noise emission standards.

Although NPS intends to complete a new rule before the 2013-2014 season, that rule would not go into effect until the 2014-2015 season. NPS is committed to extending existing limits through this upcoming winter. Here is a quick recap of various recent proposals:

* *new proposal in a draft EIS:* Would allow the 100 transportation events per winter day,

* *existing rule:* Allows up to 318 snowmobiles per day and up to 78 snowcoaches per day,

* *previous NPS proposal:* Would establish variable daily limits with as many as 330 snowmobiles on peak days and as few as 110 on slow days.

The Coalition of National Park Service Retirees took issue with Yellowstone's finding that seven snowmobiles were roughly equivalent to one snowcoach in pollution produced. The coalition argued that the park's own research indicates that seven snowmobiles would produce more air and noise pollution than a snowcoach. The NPS proposal said the snowcoaches would produce roughly equivalent amounts of pollution.

Said Denis Galvin, a former deputy director of the Park Service, "Yellowstone has built its proposed

plan around an assurance that 'transportation events' of different types will have 'comparable impacts.' But the park proposes to allow snowmobile groups to exceed its own measure of 'comparability,' generating disproportionate noise and exhaust and less ideal conditions for visitors seeking to experience and enjoy Yellowstone."

"This is contrary to what law and policy requires in our national parks," he continued. "It invites further uncertainty into the controversy over snowmobile use in Yellowstone National Park that has already stretched 15 years."

But Wyoming Gov. Matt Mead (R), who criticized the previous NPS proposal as too limiting, appeared to be on board. "This plan strikes a balance that I support and worked to achieve," he said. "It will have long-term beneficial impacts on the economy and the people of Wyoming."

Similarly, Sen. John Barrasso (R-Wyo.), a senior member of the Senate subcommittee on National Parks, reacted positively. "Today's announcement will hopefully bring to close a 15-year long debate on how the National Park Service manages Yellowstone's winter use activities," he said. "I'm encouraged Wyoming's views were incorporated into the final plan."

Conservationists who criticized the previous NPS proposal as too lenient also praised NPS. "The park's proposed plan and the Superintendent's commitments to its core elements are big steps in assuring Yellowstone's conservation and the enjoyment of visitors," said Mark Pearson, conservation program director for the Greater Yellowstone Coalition.

The key to the plan will be tougher emission rules, said the coalition that includes the National Parks Conservation Association, the Winter Wildlands Alliance, the Sierra Club and the Natural Resources Defense Council.

"The proposed plan's authorization

of increased future snowmobile use hinges on manufacturers cutting noise and carbon monoxide emissions from park-approved snowmobiles to specified levels," said the groups. "The Superintendent (Dan Wenk) has clarified that until these reductions occur, the number of snowmobiles cannot increase because the impact levels to Yellowstone's resources that the National Park Service anticipates, and is legally required to minimize, are based on the improved technology."

The BlueRibbon Coalition, which represents snowmobilers, said it would respond shortly to the proposal.

NPS described its proposal in the preferred alternative of a final supplemental EIS and final plan. NPS said it will propose a rule shortly for implementing the supplemental EIS shortly and hold a 60-day public comment period on it. The EIS and plan are available at <http://parkplanning.nps.gov/yell>.

Murkowski doesn't back off on Jewell nomination criticism

At the initial confirmation hearing for the nomination of Sally Jewell as Secretary of Interior on March 7, Sen. Lisa Murkowski (R-Alaska) gave no indication she would let the nomination proceed.

Murkowski repeated her not-so-veiled threats to place a hold on the nomination unless the Interior Department approves a road through a wildlife refuge in Alaska. "For the past several weeks much of my time has been spent on a decision from the Fish and Wildlife Service that has really rattled me to the core, to put it very simply," said Murkowski. "The service somehow found cause to oppose a single-lane, 10-mile, noncommercial road that would connect King's Cove, Alaska to the airport at Cold Bay."

Murkowski, ranking Republican on the Senate Energy Committee, is upset about a Fish and Wildlife Service (FWS) EIS that recommends against the road in Alaska across a wildlife refuge. The

road would link the village of King Cove to an all-weather airport in medical emergencies.

Murkowski also wondered about Jewell's qualifications. "I will acknowledge you have a background in energy development," she said. "I enjoyed the conversation on where you come from. More recently your career has focused on conservation. You have less experience on public lands."

Jewell did receive an endorsement from Senate Energy Committee Chairman Ron Wyden (D-Ore.), who anticipates a greater role for recreation in the management of federal lands.

"I also intend to discuss the fact that Americans are now spending \$646 billion a year on outdoor recreation and generating nearly \$40 billion in federal tax revenue, so the economics of public lands have changed in America," said Wyden. "Recreation has become a big jobs engine and it will be good for our economy if it grows bigger."

Jewell acknowledged the importance of recreation but repeatedly pledged to provide "balance" in the management of public lands. After repeating Wyden's numbers on recreation and the economy, she said, "These are impressive numbers. They underscore the important balance that the Department of the Interior must maintain to ensure that our public lands and waters are managed wisely, using the best science available, to harness their economic potential while preserving their multiple uses for future generations."

As for the Alaska road dispute, Secretary of Interior Ken Salazar met with King Cove residents February 28. The bipartisan Alaska Congressional delegation asked Salazar after the meeting to approve the road.

King Cove asked Congress for permission to build the road through the Izembek National Wildlife Refuge. The FWS EIS is not the final word on the road under the law; the secretary of Interior still must decide whether to authorize it or not.

At this point Murkowski's threat is the main obstacle in the path of the Jewell nomination. President Obama officially sent her nomination to Congress February 7. Jewell, CEO of Recreation Equipment Inc. (REI), would replace Secretary of Interior Ken Salazar, who is leaving office this month.

Congress in 2009 ordered the Fish and Wildlife Service (FWS) to prepare the Izembek EIS attendant to a land exchange that would allow construction of the road. The road would provide access to an all-weather airport in medical emergencies.

The law that authorized the land exchange, PL 111-11 of March 30, 2009, said the EIS would not be the final deciding factor in approving the land exchange and road. The Secretary of Interior must make that call.

The Izembek provision in PL 111-11, the big omnibus lands bill of 2009, would increase the size of the Izembek refuge and the Alaska Peninsula Wildlife Refuge by 56,000 acres. In return 206 acres of federal land would be used to build a road. The road would connect King Cove to an all-weather airport in Cold Bay.

In its EIS FWS chose as a preferred alternative no action, i.e. no land exchange. FWS said the 56,000 acres FWS would receive would not atone for the damage caused by the 206 acres for a road.

Court keeps Point Reyes oyster farmer in business

A federal appeals court February 25 ordered the Park Service to allow an oyster farm to continue operating in Point Reyes National Seashore until the court considers a lawsuit objecting to a planned closure.

In the order the Ninth U.S. Circuit Court of Appeals hinted strongly that the Drakes Bay Oyster Company has a good case in its objection to an Interior Department decision to close down its operation.

"Appellants' emergency motion for an injunction pending appeal is granted, because there are serious legal questions and the balance of hardships tips sharply in appellants' favor," the court said in its brief two-page injunction.

The court said it would take up the case May 13-17, giving the company at least three more months to operate.

The court did not say what the 'serious legal questions' in the Interior Department order are, but the owner of the oyster farm, Steve Lunny, and his ally, Sen. Dianne Feinstein (D-Calif.), have questioned assumptions in a Park Service EIS about noise and pollution from the oyster farm. They said the quality of the science was not adequate.

However, U.S. District Court Judge Yvonne Gonzalez Rogers in U.S. District Court in Oakland had upheld the department decision.

In response to the appeals court injunction Lunny said, "We are beyond thrilled that our business will now remain open while we continue to fight the decisions from the court and Secretary Salazar that have put our business at risk."

There are two sides to this debate. Environmentalists and the Coalition of National Park Service Retirees say a national park unit is no place for a commercial oyster farm. The Drakes Bay Oyster Company is a significant operation, producing some 40 percent of California's oysters, by one estimate.

Besides, said the retirees, the public supports the removal of the oyster farm. The retirees say 92 percent of 52,000-plus public comments on an NPS analysis favored termination of the lease and favored wilderness designation.

In its lawsuit the Lunny family argued that the Interior Department and the Park Service violated requirements of the National Environmental Policy Act by not providing public notice that an

EIS was completed. Instead, said Lunny, Secretary of Interior Ken Salazar issued a record of decision without warning.

"In complete disregard for NEPA's public notice and comment process for FEIS documents, NPS never provided written notice to interested parties that the FEIS had been released; did not public a Notice of Availability for FEIS in the Federal Register' and did not submit the FEIS to (EPA)," the suit says.

In his Nov. 29, 2012, decision Salazar rejected an application from the Lunny family for a 10-year extension of its oyster farm permit in Point Reyes.

Feinstein said she was "extremely disappointed" in the decision. She criticized the science NPS used. "The National Park Service's review process has been flawed from the beginning with false and misleading science, which was also used in the Environmental Impact Statement," she said.

The last permit held by the Drakes Bay Oyster Company officially expired Nov. 30, 2012. Salazar directed NPS to work with the company to remove all property from the park within 90 days. That deadline arrived February 28, but the court order allows the company to keep working.

Salazar said his decision would effectively designate the 1,000 acres used by the oyster farm as wilderness. Said a department release, "In 1976, Congress identified Drakes Estero as potential wilderness - the only marine wilderness area on the west coast of the continental United States outside Alaska - and directed that it automatically become wilderness when the commercial operation ended."

The Drakes Bay Oyster Company has operated an oyster farm and cannery within Point Reyes for more than 60 years, providing 30 jobs to the local economy.

In 2009 Feinstein, at the time chair of the Senate subcommittee on Interior Appropriations, inserted in a fiscal year 2010 appropriations law

(PL 111-88 of Oct. 30, 2009) a rider giving NPS discretion to renew the existing permit for 10 years. While the provision is discretionary, Feinstein has made it clear the permit should be issued for another 10 years.

Lunny's complaint is available here:
<http://causeofaction.org/2012/12/04/dboc-complaint-court-stamped/>.

Floridians propose next step in Everglades restoration

Leaders of the Florida Congressional delegation from both political parties introduced legislation (S 414, HR 913) February 28 to authorize almost \$1.4 billion in new Everglades restoration projects.

Sen. Bill Nelson (D-Fla.) and Reps. Alcee Hastings (D-Fla.) and Mario Diaz-Balart (R-Fla.) put the legislation on the table as a stand-alone bill, but it may stand a better chance of enactment as part of a broader water projects bill.

That's because leaders of both the Senate Environment and Public Works (EPW) Committee and the House Transportation Committee have said they intend to put together such a broad Water Resources Development Act (WRDA) this year.

Since 2000 when Congress approved an overarching multi-billion-dollar Comprehensive Everglades Restoration Project (CERP) in a previous WRDA, only two of the dozen or so projects anticipated by CERP have been authorized.

Congress must act separately from CERP to (1) authorize the additional projects and (2) appropriate money for them. However, it is difficult to imagine Congress approving such additional spending in a time of severe retrenchment/sequestration.

The Nelson, Hastings and Diaz-Balart bills would authorize four specific projects in the *Everglades for the Next Generation Act*. "Congressional

inaction has been a roadblock for far too long despite bi-partisan support for restoration," said Hastings. "An awkward state of limbo is not the future Congress had in mind for the Everglades when it passed CERP, and it is not the future that the American people deserve."

On February 7 Senate EPW committee Chair Barbara Boxer (D-Calif.) said at an oversight hearing on water resources legislation her committee is working on a new WRDA bill.

Last fall Boxer and then ranking committee Republican James Inhofe (Okla.) produced a draft WRDA bill, but they did not identify any specific Everglades projects in it. Sen. David Vitter (R-La.) is the ranking minority member on the committee this year.

In the House on February 8 House Transportation Committee Chairman Bill Shuster (R-Pa.) listed a new WRDA bill as the first priority on the committee's agenda for this year.

Under CERP the Corps of Engineers, the State of Florida and Interior Department agencies are charged with carrying out major projects to restore the Everglades by in general replumbing south Florida.

The Everglades Foundation praised Diaz-Balart and Hastings. Said foundation CEO Eric Eikenberg: "I commend Congressman Diaz-Balart and Congressman Hastings for their dedicated, bi-partisan commitment as Everglades Caucus co-chairmen, and for their recent introduction of the *Everglades for the Next Generation Act*. Authorization of shovel-ready CERP projects is a huge step in the right direction for Everglades restoration, eliminating the potential for further bureaucratic delays in the future."

He added, "The State of Florida has shown leadership over the years as a partner in the CERP process. This legislation, if enacted, will recognize Florida's investment in Everglades protection with the authorization of these critical next generation projects."

Indeed, under CERP the federal government pays half the freight and the State of Florida half.

The four projects in S 414 and HR 913 are:

Caloosahatchee River West Basin Storage Reservoir, \$201 million (\$105 million federal, \$105 million state),

Biscayne Bay coastal wetland, \$192 million (\$96 million each),

Broward County water preserve area, \$834 million (\$417 million each), and

C-111 Spreader Canal, \$165 million (\$82.5 million each).

More information is available on the projects at:

http://www.evergladesplan.org/pm/projects/landing_projects.aspx.

Everglades plan: In a separate development Everglades National Park February 26 published a draft EIS and management plan for the park to replace a 1979 plan. It proposes four management alternatives, which, if approved, would guide management of the park for the next 20 years. The draft EIS and plan are available at <http://www.parkplanning.nps.gov>.

New study evaluates possible state park money sources

Despite recent economic hardship state parks do have a broad menu of strategies to raise money, says a new report.

But the report, *Paying for State Parks*, says there is no single magical source of money to make up for dwindling state revenues and dwindling assistance from the state side of the Land and Water Conservation Fund (LWCF).

Concludes author Margaret Walls, research director for the Resources for the Future think tank, "Yet with all the options available, it is important to understand that no one-size-fits-all approach will work for state park

systems given the diversity in their lands and facilities and the differences in size and scope. Moreover, the problems facing many states vary in degree of severity, with some states facing a genuine crisis and others on better footing."

Besides, said Walls, each one set of four categories of revenues - user fees, privatization, dedicated public funds and private contributions - has its plusses and minuses.

For instance Walls said of user fees, which are standard practice in most state park systems, "Although user fees will always play a role in state park financing and are appropriate for many of the services parks provide, charging a price ratios use and can be inefficient. If there is no congestion and use of the park is 'nonrival' - that is, one person's use does not take away the amount left for others to enjoy - then charging an entrance fee inefficiently limits use of the park."

State and local park agencies have long relied in part on federal revenues from the Land and Water Conservation Fund. Congress established it in 1965 with revenues from oil and gas royalties for use in acquiring conservation lands. Although the law authorizes an appropriation of up to \$900 million per year (half federal, half state), it does not guarantee the \$900 million. So appropriators have the discretion to spend far less than that. And they do.

To reinvigorate the fund Sen. Max Baucus (D-Mont.) and 20 cosponsors introduced legislation (S 338) February 14 that would make the Land and Water Conservation Fund permanent and guarantee the \$900 million each year.

For the first half of fiscal 2013 Congress last fall approved an appropriation that is based on a fiscal 2012 full-year allocation of \$45 million, well below the \$450 million authorized by law. The House Appropriations Committee last year recommended \$2.8 million for the entire fiscal 2013 and the Senate subcommittee on Interior Appropriations recommended \$45.6 million.

But money isn't the only thing, said Walls. Management also counts. "Some systems have not kept up with changing demographics and preferences. Governance and management structures in many systems seem to stifle creativity and innovation," her report says. "Finding sustainable funding for parks is only one part of the problem and should be considered in conjunction with the larger question of what a state park system should look like, what programs and services it should provide, and how it should be managed."

Walls offered the positive example of the State of Michigan for "giving agencies the latitude and flexibility to make more of their own decisions and manage their own money can help."

She said, "The state park director has provided incentives to employees to develop new approaches in parks, created a variety of new initiatives and programs, and worked carefully to create a dedicated funding stream through a new annual park pass program."

As for the lagging federal assistance to LWCF, we have reported in the last two issues of *FPR* on two separate initiatives to revive and extend the existing program as it approaches its 50th birthday in 2015.

In one the National Association of State outdoor Recreation Liaison Officers has scheduled a summit for April 7-11 in Denver on the future of LWCF. In the other the Society of Outdoor Recreation Professionals separately has scheduled a roundtable to collect ideas on strengthening the often-constrained law as part of its annual meeting in Traverse City, Mich., in May.

Walls has long been active in park and recreation policy. In 2008 and 2009 she served as study director for the Outdoor Resources Review Group, which submitted recommendations to Congress on strengthening LWCF and related programs.

The 18-member Outdoor Resources Review Group was led by Henry Diamond, a partner with the law firm Beveridge & Diamond, and Patrick Noonan, chairman

emeritus of The Conservation Fund. Sens. Jeff Bingaman (D-N.M.) and Lamar Alexander (R-Tenn.) served as honorary cochairs.

Walls's new study called *Paying for State Parks: Evaluating Alternative Approaches for the 21st Century*, focuses strictly on methods for states to raise money for their parks. It is available at: <http://www.rff.org/RFF/Documents/RFF-Rpt-Walls-FinancingStateParks.pdf>.

The four main proposals in her paper:

User fees: Good: A basic fund-raising strategy for most state park systems. Bad: Entrance fees can squeeze out visitors and limit use of a particular park.

Privatization: Good: Contracts with private companies can produce more money than it costs to oversee and operate the contracts. Bad: Management of an entire park - as opposed to a single concession in a park - can create a complex and difficult relationship.

Dedicated state revenues: Good: Brings in money. Broad-based taxes are best. Bad: States often reduce general fund allocations to offset the new revenues.

Private contributions: Good: Raises money. For instance, the Central Park Conservancy in New York pays for 85 percent of the \$48 million budget for Central Park. Bad: Can crowd out general fund revenues.

Rep. Jones trying again to reverse Hatteras ORV rule

Rep. Walter Jones (R-N.C.) is going to try once again this year to reverse a Park Service plan that reduced beach access to off-road vehicles (ORVs) in the Cape Hatteras National Seashore Recreational Area.

Jones reintroduced his bill (HR 819) February 26 that the House approved last year on June 19, 2012, but that went nowhere in the Senate. The House Natural Resources Committee has already scheduled a hearing on this year's bill for March 14.

"This bill is about jobs and the taxpayers' right to access the recreational areas they own," said Jones. "It's about restoring balance and common sense to Park Service management." Jones said he has a commitment from the House Natural Resources Committee to hold a hearing on S 819 at an unspecified date.

Both North Carolina senators appear to be on board, giving the legislation a punter's chance in the Senate and, if it comes to that, an omnibus lands bill later in this Congressional session. Sens. Richard Burr (R-N.C.) and Kay Hagan (D-N.C.) cosponsored a similar bill to Jones's in the last Congress.

Hagan's support is crucial because the Senate Energy Committee is loath to consider legislation that doesn't enjoy the support of both senators from a state.

At issue is a final Park Service rule of Jan. 23, 2012, that governs ORV use in the seashore. The Obama administration published the rule after four years of controversy over a Bush administration strategy of June 2007 and subsequent litigation.

The January NPS rule would keep 28 miles of the seashore open to ORV use but designate 26 miles of vehicle-free areas.

In addition to Rep. Jones's bill ORV users filed a lawsuit Feb. 9, 2012, against the Park Service plan in U.S. District Court for the District of Columbia. However, the plaintiff Cape Hatteras Access Preservation Alliance (CHAPA) suffered a setback on January 5 when U.S. District Court Judge Emmet G. Sullivan in Washington, D.C., referred the case to Judge Terrence Boyle of North Carolina's Eastern District Court.

That's a setback for the plaintiffs because Doyle has repeatedly ruled in favor of environmentalist litigants, The Audubon Society and Defenders of Wildlife.

As for Jones's bill, the Park Service last June told the Senate

Energy Committee its plan should not be rescinded because it was balanced. "We strongly believe that the final ORV management plan and special regulation will accomplish these objectives far better than the defunct Interim Strategy," Herbert Frost, associate NPS director for natural resource stewardship, told the Senate subcommittee on National Parks.

The National Parks Conservation Association also criticized the bill. "This legislation undermines the National Park Service's carefully drafted plan that protects families visiting the beaches and nesting shorebirds and turtles while still allowing vehicles on many beaches," it said.

The reversal bill did not receive a straight up-and-down vote last year on the House floor. Rather it was included in a package of 14 lands bills, some of which were highly controversial. For instance one would have required federal land managers to cooperate with Border Patrol agents who operate on federal lands near Mexico and Canada. The House approved the package 232-to-188.

Interior considering GOP request to rescind 'bluemways'

The Interior Department said this week it was evaluating a Congressional request to rescind a conservation initiative that designates rivers and their associated watersheds as national blueways.

Seven senators and 18 House members had written Secretary of Interior Ken Salazar February 14 to request cancellation of the program, as we reported in the last issue of *FPR*. They object to a provision of Salazar's Secretarial Order 3321 setting up the National Blueways System that puts a committee of federal officials in charge, without Congressional input.

According to an official with the Department of the Interior: "We have received the congressional letter and are currently working to respond to their concerns."

In their letter to Salazar the Republicans said, "According to the Order, it appears that any watershed in the United States could be designated without any vote in Congress and without proper public notice." The letter was sent by the Western Caucus en masse. Caucus cochairs Sen. John Barrasso (R-Wyo.), Rep. Stevan Pearce (R-Ariz.) and Rep. Cynthia Lummis (R-Wyo.) led the effort.

The caucus asked Salazar to rescind his executive order of May 24, 2012, that set up the blueways system. "We urge you to immediately withdraw Secretarial Order 3321," the members said. "We also encourage you to bring proposals to Congress that are creating new land and water designations so that we may consider them through the normal committee process and with public transparency."

While the Western Caucus had Salazar's attention, they asked the secretary to formally withdraw once-and-for-all his "wildlands" policy. In that policy, which Salazar said he would not carry out, he directed his agencies to identify wildlands and protect them. The Republicans objected that the secretary was attempting to usurp Congress's exclusive authority to designate wilderness.

Said the caucus in its blueways letter, "On August 2, 2012, members of the Senate and House Western Caucuses sent you a letter expressing concerns regarding Bureau of Land Management Manuals 6310 and 6320, which mirrored the same rejected policies of Wildlands Secretarial Order 3310. These manuals were crafted without public input or notice. These members asked you to withdraw these manuals, and set up a briefing for them. The manuals were not withdrawn, nor was the briefing request even acknowledged by your department. We would like to request once again, a briefing by DOI for our offices on the status of these BLM manuals."

Salazar announced the establishment of the National Blueways System in June 2012 concurrent with the designation of the first unit - a Connecticut River and Watershed National

Blueway in New England. On January 9 the Department of Interior designated a second unit - the White River National Blueway in Arkansas and Missouri. The White River blueway extends from the Ozark Mountains to the Mississippi River. Salazar established the system through the executive order.

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

Notes

Senators: Add Corps to FLREA.

A Republican senator teamed up with a Democratic senator February 28 to introduce legislation (S 400) to let Corps of Engineers facilities retain entrance and user fees. The senators would do that by adding the Corps of Engineers as an eligible agency under the federal recreation fee law called the Federal Lands Recreation Enhancement Act (FLREA) of 2004. The Corps presently collects some \$45 million per year in user and entrance fees, but the revenues are transferred to the Corps general fund. Sens. John Boozman (R-Ark.) and Jeff Merkley (D-Ore.) would have the money returned to the collecting facility. "When citizens spend money at a Corps recreation facility in Arkansas, Oregon, or other states, they usually assume that money will be invested on-site to improve facilities and create recreation opportunities," Boozman said. "This will help maintain and improve facilities that people use in the Natural State and continue attracting people to these sites. This legislation would result in millions of dollars of annual reinvestment to Arkansas recreational facilities." He said the Corps in Arkansas collected \$4.2 million in recreation fees in fiscal 2012.

Although the Corps does not have an agency-wide recreation budget, it says it spends some \$275 million per year to operate recreation areas. In the Corps recreation is given lower-priority than flood control, navigation and hydropower. The Corps hosts 400 million visitors per year, more than the National Park Service or Forest Service. Some 33 percent of all fresh water fishing in the country is done on Corps waters. The Corps manages 12 million acres of public lands and waters.

Politicos seek highway money.

The House and Senate leaders most responsible for finding money for surface transportation programs, including outdoor programs, last week promised to consider all sources of money to pay the bill long into the future. Most important, House Transportation Committee Chairman Bill Shuster (R-Pa.) is leaving the door open to an increase in gasoline taxes to power the Highway Trust Fund, which in turn powers transportation-related recreation programs. As constituted the existing 18.4 cents per gallon tax falls far short of paying the annual \$50 billion-plus bill surface transportation bill for the country. Shuster told the American Association of State Highways Transportation Officials February 28, "I believe we have to look at every option out there. I don't rule anything out. I don't rule anything in." Shuster matters more in this debate than his counterpart Senate Environment and Public Works Committee Chair Barbara Boxer (D-Calif.) because House Republicans have blocked any attempt to increase the gasoline tax. Still, Boxer echoed Shuster at the conference. "We have got to find a source of funding for that (fund) that makes sense. It's wonderful to know everybody says everything should be on the table. This is not going to be easy." In addition Shuster pledged to work with Democrats on his committee; his predecessor in the last Congress, Rep. John Mica (R-Fla.), in large part ignored the minority. The existing surface transportation law Moving Ahead for Progress in the 21st Century Act (MAP-21), PL 112-141 of July 6, 2012, provides money through September 2014. It consolidated such programs as transportation

enhancements and recreational trails into a Transportation Alternatives line item. The estimated allocation to the Transportation Alternatives program was \$760 million per year, or about a \$200 million decrease. In addition the programs now must complete with each other and with other programs for the \$760 million. Within Transportation Alternatives MAP-21 set aside \$85 million for the recreational trails program, while allowing states to opt out if they wished. Only Florida and Kansas opted out.

Wetlands action requested.

Remember wetlands permitting? Sportsmen asked President Obama last month to sign off on a proposed new wetlands permitting policy that the Corps of Engineers and EPA sent him a year ago. The policy would require Section 404 permits for isolated water bodies as well as for navigable waters. Supreme Court rulings appear to say that the existing Clean Water Act, as interpreted by EPA and the Corps, limits permitting to navigable waters. According to the sportsmen 20 million acres of wetlands and two million miles of streams are at risk. "Each day that the administration delays finalizing Clean Water Act guidance means real losses in wetlands and streams," said Steve Kline, director of the Center for Agricultural & Private Lands, Theodore Roosevelt Conservation Partnership. "While it is true that a year has passed since the guidance was submitted for final review, a decade has passed since Clean Water Act protections for some of our most important waters were thrown into disarray." The disarray stemmed from a landmark 2008 *Rapanos* Supreme Court decision. The EPA and Corps policy sitting at the White House would supposedly clarify the law and protect wetlands.

Rec gear sales up for year. The Outdoor Industry Association (OIA) said February 26 that sales of outdoor products increased 5.1 percent over the last fiscal year to \$11.4 billion. For OIA's purposes the fiscal year ended on January 31. OIA said the largest increases came from Internet sales (an increase of almost 26 percent) and specialty stores (up 13.1 percent.) OIA makes its data available for free only

to its members. For more information go to <http://www.outdoorindustry.org>.

FS seeks planning input. The Forest Service February 26 published proposed directives that are designed to guide the implementation of a rule that establishes a national planning policy. At the same time the service asked public comment on the proposed directives. This is one more step in implementing a landmark March 23, 2012, national planning rule that took years to develop. An alliance of timber, livestock and powered recreation industries filed a lawsuit against the rule Aug. 13, 2012. The lawsuit argues that the rule illegally requires the protection of all species, and not just vertebrate species. The requirement falls under the broader policy of ecological sustainability. In two other recent developments a 21-member advisory committee that is to help the service implement the rule met for a second time February 19-22 in Albuquerque, N.M. And the service January 24 said it would begin implementing the planning rule by preparing an assessment of resources in three California forests - Inyo, Sequoia and Sierra National Forests. The new directives are available at <http://www.fs.usda.gov/goto/planningrule/directives>. Comment by April 29 to: <https://cara.ecosystem-management.org/Public/CommentInput?Project=30641> or at <http://www.regulations.gov>.

Boxscore of Legislation

Appropriations Fiscal 2013 (first half)

Congressional leaders agreed to base funding for all appropriations bills during the first half of fiscal 2013 on an August 2011 budget agreement. President Obama signed the six-month bill into law September 28 as PL 112-75.

Appropriations Fiscal 2013 (second half)

HR 933 (Rogers). House approved March 7. Would reduce spending by nine percent compared to fiscal 2012 over the next six months. That includes the sequestration below.

Sequestration 2003

HR 8 (Boehner). President Obama signed into law (PL 112-240) January 2. Delayed nine percent appropriations cuts until February 27, when they went into

effect. Second half appropriations bill would lock them in until October 1.

Appropriations Fiscal 2014

No budget request yet. OMB said administration would not meet February 4 deadline for budget submittal.

National monuments

HR 250 (Chaffetz), HR 382 (Foxx), HR 432 (Amodei). Chaffetz introduced January 15. Foxx introduced January 23. Amodei introduced January 29. Chaffetz would require Congressional approval of national monuments designated under the Antiquities Act. Foxx would require state approval. Amodei would require Congressional approval of any monument in Nevada.

National heritage areas

HR 445 (Dent). Dent introduced February 1. Would establish national policy and national standards for national heritage areas.

Montana wilderness/recreation areas

S 37 (Tester). Tester introduced January 23. Would designate 666,260 acres of wilderness, six recreation areas totaling 288,780 acres and special management areas totaling 80,720 acres.

Farm bill

S 10 (Reid). Reid introduced January 22. Would establish new farm policy through 2018, complete with conservation programs.

Hunting federal lands

S 170 (Murkowski). Murkowski introduced January 29. Would declare BLM and FS lands open to hunting and fishing unless specifically closed.

Land and Water Conservation Fund

S 338 (Baucus). Baucus introduced February 14. Would guarantee \$900 million per year to program in perpetuity.

Everglades projects

HR 913 (Hastings), S 414 (Nelson). Both introduced February 28. Would authorize four major restoration projects at \$1.4 billion.

Hatteras ORVs

HR 819 (Jones). Jones introduced February 16. Would rescind a Park Service policy limiting off-road-vehicles on the seashore.

National park in Delaware

HR 703 (Carney), S 347 (Carper). Both introduced February 14. Would designate a first national park in the first state to join the union