

# Federal Parks & Recreation

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## **Florida legislators balk at voter-backed land-buy plan**

The Florida legislature at press time was attempting to slash Florida's vaunted Florida Forever land acquisition program to the bone.

Florida Forever, as approved by a ballot initiative in November, was in line to receive more than \$150 million this year for land acquisition. But the Florida Senate and the Florida House have each passed appropriations bills with less than \$20 million in them.

The proximate cause, according to state conservationists, is a campaign by the U.S. Sugar Company to block the purchase of thousands of acres of its land that drain into the Everglades. In 2010 the company agreed with the state to sell the land for conservation purposes, but it now wants to keep the land and develop it.

Meanwhile, all appropriations are held up over an unrelated mega-battle between the Florida House and Senate over Medicaid spending, which could tie up billions of dollars. Until that dispute is resolved, perhaps after Memorial Day, the state legislature won't resolve the Florida Forever disagreement.

Will Abberger, chair of the Florida Forever campaign, told us this week, "The most troubling thing is there is very little funding for Florida Forever." The ballot initiative, which received more than 75 percent of the vote, said that one-third of a real estate transfer tax, or \$750 million this year, should be used for conservation purposes.

Of that \$750 million, sponsors anticipated spending \$155 million in fiscal year 2015-2016 on land

acquisition. One big-ticket item was the U.S. Sugar land near Lake Okeechobee.

Instead of spending the \$150 million on acquisition the Florida Senate and House are on course to spend much lesser amounts, and to direct the surplus to other purposes, said Abberger.

"They are preparing to spend the money on agency operations for the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission and the Florida Forest Service," he said. "That was not the voters' intent." Indeed the Florida Forever ballot initiative uses the word acquisition 18 times.

Abberger acknowledged that much of the operations money in the House and Senate money bills would still be used for conservation, albeit not for land acquisition. Thus far the state Senate has approved \$15 million for land acquisition and the House \$8 million.

Critics of land acquisition, led by Senate Appropriations Committee member Alan Hays (R-Fla.), say the state should take care of the lands it already owns before acquiring more. That reflects an attitude among western Republicans in the U.S. Congress, who object to additional federal land acquisitions. *(See following article.)*

If the Florida legislature does follow through with its allocation plan, Hays and other members anticipate a sure lawsuit.

The Florida Forever vote last fall was the most prominent among successful conservation ballot initiatives around the country in the Nov. 4, 2015, election. Altogether voters across the U.S. approved some \$16 billion in conservation initiatives at a time of political retrenchment.

Florida won the sweepstakes, with voters approving a \$9 billion conservation amendment to the state constitution. If the legislature agrees each year, Amendment 1 would allocate one-third of the revenues

from an existing real estate transfer tax to land conservation, outdoor recreation, management of existing lands and protection of lands critical to the water supply. Sixty percent of the Florida voters had to approve the initiative because it would amend the state constitution. Seventy-five percent did.

The program would kick in on July 1, 2015, and would ante up \$750 million in year one. That \$750 million would be split up among a dozen different programs, with land acquisition getting about \$150 million, or so supporters thought.

Advocates say the amendment is needed because Gov. Rick Scott (R-Fla.) and the Florida legislature have stripped existing conservation programs of money, leaving at risk 2 million acres of natural areas.

In a breakdown provided to us by amendment sponsors, the governor, the state House and the state Senate would all appropriate more than \$750 million from Florida Forever for conservation in the state in fiscal year 2015-2016. But how the four would distribute the money varies.

For land acquisition Florida Forever proponents recommended an appropriation of \$155 million, the governor recommended \$100 million, the House \$8 million and the Senate \$15 million.

The amendment would allocate the real estate tax revenues to a Land Acquisition Trust Fund.

## **Key senator talks of major changes in LWCF emphasis**

Sen. Lisa Murkowski (R-Alaska) made clear April 22 that if she gets her way the next iteration of a Land and Water Conservation Fund (LWCF) law will be quite different than the existing one.

That is, Murkowski said, LWCF money should be used for federal land management agency maintenance. At a

Senate Energy Committee hearing she also said the state side of the program should be given greater priority vis-à-vis federal land acquisition.

As chairman of the energy panel Murkowski will serve as the bellwether in the Senate on the future of LWCF as it comes up for renewal. It is scheduled to expire September 30. She also chairs the Senate subcommittee on Interior appropriations.

In the April 22 hearing Murkowski described her antipathy to federal land acquisition. "As we look to reauthorize LWCF, I believe that it makes sense to shift the federal focus away from land acquisition, particularly in Western states, toward maintaining and enhancing the accessibility and quality of the resources that we have," she said. "This is the best way to put our nation's recreation system on the path of long-term viability."

Murkowski noted that federal lands already occupy 30 percent of the country and asked Deputy Secretary of Interior Michael Connor, "The question we are dealing with is, do we keep adding to that land bank without focusing on our responsibility for management and maintenance? At what point should the Land and Water Conservation Fund not be the Land and Water Acquisition Fund?"

Connor responded that federal LWCF money has been used in the past to enhance management of federal lands and would be in the future. "As I mentioned in my testimony, 99.5 percent of the acquisition within the last five years has been within the boundaries of (existing) conservation units," he said. Besides, federal agencies attempt to use the money to actually improve land management by such strategies as adding to conservation values and by acquiring connecting habitat, he said.

For all the faults Murkowski perceives in LWCF, she said, "I fully support reauthorizing this Act, this year, in a way that reflects changing needs and evolving viewpoints about conservation in the 21st century."

A spokesman for Murkowski said the

next step in the legislative process is "undetermined" because the committee has a full schedule for May and June. But he said Murkowski believes the law "needs to be reformed, although she's not committed to any particular level of funding."

There are significant players who have criticized LWCF for years, specifically private property rights owners. One representative group, the American Land Rights Association (ALRA), notified its members April 27 that its interests were not represented at the April 22 hearing.

"No one representing real mom and pop landowners is testifying," said ALRA. "Call your Senators to complain."

ALRA's great fear is that the administration and its allies will convert LWCF into a guaranteed, \$900 million per year program, rather than a program that is subject to annual appropriations.

Murkowski received strong pushback to the notion of using LWCF money for maintenance from ranking committee Democrat Maria Cantwell (D-Wash.) and Connor. Cantwell said the two programs shouldn't be intertwined.

"I think we at least should all come to an agreement as to what the maintenance backlog is in the Department of Interior," she said. "Let's put the number out there and then we can decide what we can do about it. But blaming it all on (LWCF) as the source of taking care of all the backlog on public lands, I think we need to come up with some other remedies."

Connor admitted federal land maintenance has "gotten excessive." But, he said, "We just don't think that needs to compete with LWCF."

By that Connor said the fiscal year 2016 Obama administration budget proposed discrete increases in funding for both LWCF and federal land management agency maintenance - with separate offsets for each.

In submitting its annual budget request to Congress February 2 the Obama administration recommended that Congress (1) appropriate \$400 million for LWCF in fiscal 2016 and (2) by separate authorizing legislation guarantee an additional \$500 million through an extended rewrite of the law.

Here are some of the LWCF-related fiscal 2016 Obama budget requests:

\* LWCF FEDERAL APPROPRIATION: For federal land acquisition the administration recommended \$235.8 million compared to a final fiscal 2015 appropriation of \$165.7 million. The breakdown: NPS acquisition, \$64.3 million; BLM, \$38 million; FWS, \$58.5 million; FS, \$63 million; and DoI Valuation Services, \$12 million.

\* LWCF FEDERAL (NEW GUARANTEED PROGRAM): This presupposes Congress approves new legislation to guarantee \$900 million per year for LWCF. These recommendations are in addition to the regular appropriations above. The breakdown: NPS acquisition, \$106.7 million; BLM, \$55.4 million; FWS, \$106.3 million; FS, \$64.7 million; and DoI Valuation Services, \$6 million.

\* LWCF STATE APPROPRIATION: For state LWCF grants the administration recommended \$53.2 million, compared to a fiscal 2015 appropriation of \$48 million.

\* LWCF STATE (NEW GUARANTEED PROGRAM): This allocation presupposes Congress approves new legislation to guarantee \$900 million per year for LWCF. For state grants the proposal would add \$47 million, for a total of \$100 million.

\* URBAN PARKS AND RECREATION RECOVERY: The administration recommended \$25 million from a reauthorization of LWCF, compared to no appropriation in fiscal 2015.

**Recent legislative history:** The renewal of LWCF has already been a hot topic this year in the Senate. Most prominently on January 29 the Senate barely rejected an amendment (SA 92) to a Keystone Pipeline System bill that would have reauthorized LWCF

permanently. It failed by one vote, 59-to-40. Sixty votes were needed to pass. And an ailing Sen. Minority Leader Harry Reid (D-Nev.) missed that vote, so someday the votes may be there.

Separately five Republican senators led by Sen. Richard Burr (R-N.C.) have sponsored legislation (S 338) that would make LWCF permanent at \$900 million per year. Six Democrats cosponsored the Burr bill. On February 5 sympathetic senators attempted to gain Senate passage of Burr's S 338, but were stymied by a procedural motion from Sen. Mike Lee (R-Utah).

On March 27 the Senate recommended the extension of LWCF in a fiscal year 2016 Congressional budget resolution (S Con Res 11). However, the budget is purely advisory and line committees would still have to do the heavy lifting in subsequent legislation to extend LWCF.

In a fourth piece of LWCF legislation six Democratic senators led by Cantwell introduced a bill (S 890) March 27 that would permanently reauthorize LWCF, with guaranteed funding. No Republican senators cosponsored the bill, even though Republican support is essential for the success of such legislation in the Senate. The Burr bill would not guarantee money for LWCF; Cantwell would.

In the House nine House Republicans cosponsored legislation (HR 1814) April 15 that would make LWCF permanent. Leading the Republican cosponsors was Rep. Mike Fitzpatrick (R-Pa.) That bill has not begun to move and faces significantly higher hurdles than do the Senate bills.

**NPS maintenance:** The fiscal 2015 Obama administration budget recommends for the Park Service Centennial a \$326 million increase in regular appropriations and \$500 million in a new fund to address maintenance.

The maintenance program would require Congressional approval in new authorizing legislation. Some of the \$500 million could be used by other

Interior land management agencies, as well as the Forest Service. To help pay for maintenance the administration would seek contributions from nonfederal partners.

But Murkowski was not buying the offsets. "The offsets are not offsets that are going to be acceptable within this Congress," she said.

Former Deputy Secretary of Interior Lynn Scarlett from the George W. Bush administration suggested that the \$22 billion federal land agency maintenance backlog (NPS \$12 billion) could be reduced, if not eliminated, by smart management.

"The central issue is, for which I think there is a remedy, to the maintenance backlog is it needs to be tied to sound agency management," she said. "A seldom-used road for example that is on the list might not really need repair. So they should set clear priorities."

At the same time Scarlett said all entities, whether government agencies or private businesses, have some sort of a maintenance backlog. She said industry generally accepted a number of 10 percent of capital replacement costs.

She then used the example of the Fish and Wildlife Service, which went through an exercise to prioritize its maintenance needs. "The Fish and Wildlife Service now has its backlog down to four percent which is well within industry practice," Scarlett said.

Acknowledged Connor, "There is always going to be some level of backlog and we have to separate and prioritize it. That's what we are doing with respect to the National Park System and what the Fish and Wildlife Service has already done."

Cantwell also pointed out that much of the Park Service maintenance backlog was for roads, which a surface transportation law usually funds. "Nearly half of the National Park Service's estimated backlog is attributed to needed repairs for roads

and highways within the national parks," she said. "The single biggest improvement we could make in reducing the maintenance backlog would be to increase the funding level in the transportation bill for park roads."

**State grants boost:** In addition to attacking land acquisition for worsening the federal maintenance backlog, Murkowski said the federal side of LWCF was receiving more priority than it should compared to the state program.

"When we talk about the Land and Water Conservation Fund Act these days, it is almost exclusively about federal land acquisition," she said. "And that's a little disappointing here and I am going to be honest with you. Many seem to have forgotten the pivotal role that states have in conservation and outdoor recreation under the act."

"From the start, LWCF monies were to be allocated each year so that federal agencies would receive no less than 40 percent and the States the remainder," Murkowski added. "But once again, with over 85 percent of LWCF funds going to federal land acquisition, it's clear to me we're not meeting that Congressional intent."

She concluded, "So, instead of leaving them on the sidelines, I believe States need to be given the opportunity to lead here. States are in the best position to understand and accommodate the needs of our citizens. And not every State has access to federal recreation resources."

The Murkowski spokesman also singled out state grants for praise. "Obviously, there is the issue of rebalancing the law with state grants only getting 12 percent of the total," he said. "The (original) law says it should be 60 percent. She will try to rebalance that."

The National Association of State Park Directors acknowledged that the original LWCF law in 1964 envisioned a 60 percent share for state grants, but that was eliminated in 1976.

Lewis Ledford, executive director

of the association, recommended to the committee that Congress reinstate the 60 percent share. "It is estimated that dedicating 60 percent of funds to the state assistance program would more than triple the funds available to local communities under the status quo," he said.

By comparing the state program with federal land acquisition, Murkowski touched on a seldom-mentioned LWCF competition between conservationists, who advocate for federal land acquisitions, and state and local officials, who promote state grants. For the record the two sides are allies, frequently combining on joint letters to Congress seeking support. But off-the-record they frequently jockey for larger bites of the appropriations apple.

The Wilderness Society, long a champion of federal land acquisition, said Congress should fund both. "This hearing should be focused on how Congress plans to permanently fund this highly beneficial program into the future so that all our nation's conservation needs are met, both nationally and locally," said Alan Rowsome, senior director of government affairs at The Wilderness Society.

## **House panel extends FLREA for year to buy time to rewrite**

The House Natural Resources Committee April 30 approved a one-year extension of a federal entrance/user fee law to give itself time to write a replacement law.

Committee chairman Rep. Rob Bishop (R-Utah) sponsored the bill (HR 1991) that simply extends the expiration date of the existing Federal Lands Recreation Enhancements Act of 2004 (FLREA) from Sept. 30, 2016, through Sept. 30, 2017. Ranking committee Democrat Raúl M. Grijalva (D-Ariz.) cosponsored the bill.

Congress usually offers extensions of rec fee laws one year in advance in order to give federal land management agencies time to prepare and announce fee schedules for approaching seasons.

"We just want more time to deal with this more extensively," said a spokeswoman for Bishop. "This will keep it the same for a year."

Bishop's office told us in March that he intends to revise the law this year, despite rumors that committee members are reluctant to act on any legislation to boost levies on the American people.

Last year when he was chairman of the subcommittee on Public Lands Bishop pushed a bill (HR 5204) through the committee that his office told us would be the starting point for legislation this year.

As for new fees the spokeswoman for Bishop, Julia Bell, told us two months ago "the chairman will want to put strict limitations on fees."

And that creates a problem because last year HR 5204, to the consternation of the Obama administration, would have required Congressional approval of any individual area fee increases. The administration said that would usurp agency authority to assess fees.

Meanwhile, if there is a battle this year over changes to the law, anti-fee forces are gearing up now. The Western Slope No-Fee Coalition has warned its members, "Folks, you are poised to lose the pay-to-play battle. You need to let your elected representative s know how important our heritage of public lands is for you and for future generations. Demand that they enact sensible recreation fee legislation that protects the public."

Two minor bills affecting FLREA have already been introduced in this Congress. One measure (S 119) from seven senators would entitle all veterans with a service disability to a lifetime free pass to federal recreation lands.

Under current law veterans with a 100 percent disability are eligible for a lifetime free pass to federal lands, including national parks. S 119 would extend that pass to any service-connected disability.

Sens. Jeanne Shaheen (D-N.H.) and Susan Collins (R-Me.) are the lead sponsors.

On March 19 Rep. Richard Nugent (R-Fla.) introduced a second measure (HR 1505) that would authorize lifetime passes for all veterans to all federal recreation lands and national parks for \$10. The veterans would have to be honorably discharged.

When the House Natural Resources Committee approved the comprehensive rec fee bill last year, the panel left several issues unresolved. In addition to the dispute over who has ultimate authority to set new fees, Congress or land management agencies, the committee did not address appropriate discounts for senior citizens age 62 or older.

For \$10 now seniors can buy a lifetime America The Beautiful Pass into all national parks and other land management agency sites. The standard America the Beautiful fee is \$80 per year.

Some outdoor policy players have suggested a \$40 lifetime pass for seniors, others have suggested an increase in the age to begin the pass, and others have suggested just giving seniors a simple percentage discount each year.

HR 5204 punted on the issue, calling instead for a study by the Departments of Interior and Agriculture.

Finally, the committee bill did not include the Corps of Engineers despite general agreement among interest groups and politicians that the Corps should be part of the program.

FLREA, as enacted on Dec. 8, 2004, as PL 108-447, Section 804, was only good for 10 years. An interim appropriations law (PL 113-46 of Oct. 16, 2013) extended it through Dec. 8, 2015. PL 113-235 of Dec. 16, 2014, extends FLREA through Sept. 30, 2016. HR 1991 would extend it through Sept. 30, 2017.

FLREA produces about \$270 million per year in fee revenues and most of

the money is used to improve recreation facilities.

## **As expected, House public lands spending cap goes south**

Austerity is officially the name of the appropriations game for fiscal year 2016. The House Appropriations Committee made that so April 22 when it set a fiscal year 2016 spending cap for an Interior money bill that is actually less than in fiscal 2015. And that doesn't count inflation.

The committee established a so-called 302(b) allocation of \$30.170 billion for the Interior and Related Agencies bill, compared to a final fiscal 2015 appropriation of \$30.416 billion. That's a decrease of \$246 million.

The chairman of the House Appropriations Committee, Rep. Harold Rogers (R-Ky.), acknowledged the limitations in the caps for all 12 appropriations bills, but said they were fair. "The 302(b)'s before you are fair and balanced, providing funding for each program, agency and department to fulfill each of those purposes," he said. "As we all know we are working under a very constrained budget this year. With these numbers we are making the most of a tough situation. We did make responsible decisions to distribute funding where it is most needed."

But ranking House Appropriations Committee Democrat Nita Lowey (R-N.Y.) warned the committee that austere caps were doomed to failure. "Today's consideration of the 302(b) allocations will essentially dictate if our annual appropriations process succeeds or fails," she said. "If we don't provide reasonable or realistic numbers at the beginning these bills won't pass the floor, won't go to a regular conference with the other body and bills will not be signed into law by the President."

The committee approved the allocations by a voice vote after rejecting a Democratic substitute by a 20-to-29 vote.

The appropriations caps follow the

lead of a Congressional budget (S Con Res 11) that House and Senate Budget Committee negotiators agreed to April 29. The House and Senate are expected to give final approval to S Con Res 11 this week.

The budget sets a spending ceiling of \$36.4 billion for natural resources. However, House Democrats prepared a separate budget that would have ponied up \$38.9 billion for natural resources. The House rejected it.

On the policy side the Congressional budget employs a roundabout strategy - it includes separate recommendations for the House and Senate. That is, it lists dozens of policy positions adopted by the Senate and House that offer recommendations only for the respective houses. It also includes several dozen positions that would apply to both houses.

In that the budget does not make legislation - or require legislation - the policy positions are strictly advisory. Still those positions do represent the thinking of majority Republicans in the House and Senate.

During its original consideration of the budget March 26-27 the Senate accepted a key Park Service policy amendment to S Con Res 11 from Sens. Maria Cantwell (D-Ore.) and Rob Portman (R-Ohio). It encourages authorizing and appropriations committees to set aside money for a Park Service Centennial program. The House budget does not include a comparable provision. The recommendation is mentioned in the Senate half of the final budget agreement.

No Senate floor amendment was needed for the Land and Water Conservation Fund (LWCF) because, coming out of committee, S Con Res 11 already carried a recommendation that it be made permanent. The recommendation is recommended for both the House and Senate sides of the final budget agreement.

Again, the House budget did not include a comparable LWCF provision.

The amendments accepted by the Senate are largely symbolic, simply making room in the budget for subsequent actions by Congress on individual legislation. That is, unless Congress puts together a reconciliation bill to implement the budget recommendations later this year. Budget committee leaders said this week that they intend to assemble a reconciliation bill, presumably in late summer or fall.

Congress rarely does write such monster reconciliation bills because they might fail because of their own weight after a veto. Nonetheless, a reconciliation bill could be of great importance in the Senate because passage would only require a majority vote, not a 60 percent margin, as is the case for individual bills.

Meanwhile, the House side of S Con Res 11 includes few of the Senate policy amendments. But the House would join the Senate in holding down domestic spending and encouraging disposal of federal lands. The Congressional budget does not go to the President.

Two outside elements will play a role in fashioning an Interior bill this year - emergency fire spending and county assistance under the payments-in-lieu of taxes (PILT) program. If not removed from the appropriations bill, those two programs could eat up between \$500 million and \$1 billion of the total appropriations allocation.

The ranking Democrat on the House subcommittee on Interior appropriations, Rep. Betty McCollum (D-Minn.), said the subcommittee's allocation, combined with the fire and PILT costs, will make the subcommittee's job "extremely difficult."

"Increases in wildfire costs, contract support, Native American programs and PILT, which is now mandatory, alone will total \$1.4 billion," she said. "These costs leave a great hole in the Interior and Environment allocation that will have to be made up with cuts to other programs."

Subcommittee chairman Ken Calvert (R-Calif.), in comments on the 302(b) caps he submitted to *FPR*,



did not address the substance of his upcoming bill. But he did say, "The discretionary spending caps we are operating under are the law of the land until the President gets serious about addressing the rising costs of our entitlement programs. I will work with my colleagues on the Appropriations Committee to make the best possible use of the resources we are provided under the caps."

Here are some of the policies considered by the Senate. We have indicated if they were included in the final budget.

**Federal land disposal:** The most controversial amendment from Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) encourages Congress to authorize disposal of federal lands. Conservationists charge that her amendment could lead to the sell-off of prized federal tracts. *The recommendation is included in the Senate half of the final budget agreement.*

But Murkowski has said repeatedly that her amendment is advisory only. "So nothing in the language that we have included in this amendment actually sells, transfers or exchanges a specifically identified piece of property," she said. "Any legislation enabled by this spending-neutral reserve fund will have to go through the process and be voted either up or down in regular order."

The Senate approved the lead amendment from Murkowski March 27 in a close 51-to-49 vote that favors disposal of the federal estate through sale, transfer or exchange to state and local governments. The amendment excludes from disposal national parks, national preserves and national monuments.

The Senate did not vote on a separate, opposite amendment from Sen. Martin Heinrich (D-N.M) that would have barred the Senate from approving any sale of federal land to balance the budget. Heinrich withdrew the amendment.

The House resolution would, like Murkowski's, have Congress dispose

of federal lands. A House Budget Committee report accompanying H Con Res 27 says, "This budget keeps funding for land acquisition under congressional oversight and encourages reducing the Federal estate, giving States and localities more control over the land and resources within their borders."

**Monument restraints:** The Senate debated fiercely but did not vote on an amendment from Sen. Steve Daines (R-Mont.) that would have required a President to consult with state and local governments before designating national monuments, if Congress separately approved substantive legislation to do that. Daines withdrew the amendment.

The Daines amendment would not by itself have changed the law affecting monument designations, but it did say that Congress should pass legislation that would require state and local approval of monuments.

A half-dozen such bills have been introduced in the House and Senate this year led by Murkowski's S 437 that would require Congressional approval of any national monument.

**Emergency fire fighting:** The Senate budget resolution "supports fully funding wildfire-suppression operations and promotes healthy forest management while ending irresponsible and unrealistic budgeting practices."

That appears to endorse bipartisan legislation (S 235, HR 167) to pay for the most expensive emergency fires out of a disaster account, rather than out of line appropriations bills. That legislation is based on an Obama administration recommendation. *The recommendation is included in the Senate half of the final budget agreement.*

The House budget resolution acknowledges the problems posed by emergency fires but does not recommend new legislation. "Borrowing for wildfires is detrimental to the long-term planning of (the Forest Service and Interior Department agencies)," says H Con Res 27. "This budget acknowledges the need to minimize the adverse

effects of fire transfers on the budget of other fire and non-fire programs, and the necessity to responsibly budget for wildfires."

**Wetland rule:** The Senate approved March 25 an amendment from Sen. John Barrasso (R-Wyo.) that would forbid EPA and the Corps of Engineers from implementing a proposed rule that would expand the definition of a wetland requiring a Section 404 land disturbance permit. *The recommendation is included in the Senate half of the final budget agreement.*

The proposed rule of April 21, 2014, would, in addition to permits for navigable waters, require permits for seasonal streams, wetlands near navigable waters and other waters.

## **President backs NPS programs for Centennial in Everglades**

President Obama used an event in Florida April 22 to vigorously promote the National Park System as it approaches its Centennial in 2016.

Obama announced the distribution of \$25 million in restoration projects as part of the Centennial campaign's theme of "Find Your Park." And at the Everglades National Park event he praised a Centennial-related program designed to get young people into the parks.

After calling on Congress to "fully fund the Land and Water Conservation Fund," he said, "I'm also announcing \$25 million in public and private money for restoration projects at our national parks. And this is part of our broader effort that we've launched to encourage every American to 'Find Your Park.' Chances are, there's one closer than you think."

As for inviting young people to parks he said, "So starting this fall, we're going to give every fourth grader in America an 'Every Kid In A Park' pass, and that's a pass good for free admission to all our public lands for you, your families for an entire year. Because no matter who you are,

no matter where you live, our parks, our monuments, our lands, our waters - these places are your birthright as Americans."

The main reason for the Florida event was to boost the President's campaign to address climate change. Obama said Everglades National Park was a good example of the negative impacts of climate change on the nation.

"And here in the Everglades, you can see the effect of a changing climate," he said. "As sea levels rise, salty water from the ocean flows inward. And this harms freshwater wildlife, which endangers a fragile ecosystem. The saltwater flows into aquifers, which threatens the drinking water of more than 7 million Floridians."

On April 2 the Park Service and its friends - including two First Ladies - began the campaign to spruce up the National Park System for its Centennial in 2016, and beyond.

In a ceremony in New York City, First Ladies Michelle Obama and Laura Bush joined Interior Department officials in promoting the parks to all ages and races, not just older whites who make up the majority of visitors.

Still to be determined is where the money will come from to pay for the Centennial.

The fiscal 2016 Obama administration budget recommends for the Centennial a \$326 million increase in regular appropriations and \$500 million in a new fund to address maintenance.

The maintenance program would require Congressional approval of new authorizing legislation. Some of the \$500 million could be used by other Interior land management agencies, as well as the Forest Service.

Congress in December did approve modest boosts for the Centennial in a fiscal year 2015 appropriations law (PL 113-235 of December 16) and in an omnibus public lands bill (PL 113-291 of December 19.)

The appropriators approved \$25 million for NPS operations and \$10 million for matching endowment grants. That's new money.

The \$25 million in restoration grants the President touted April 22 came from the \$10 million endowment grants seed money.

The restoration grants mentioned by the President began with the \$10 million appropriation, which was supplemented by more than \$15.9 million in contributions from more than 90 partner organizations. The projects are slated for more than 100 parks in 31 states and the District of Columbia.

The Kids in the Parks program was featured in the Obama administration's fiscal year 2016 budget request. President Obama fleshed out his administration's promise to bring the nation's youth to the public lands February 19. He laid out a multi-headed plan that would include a new, \$20 million appropriation to bring one million fourth-grade, low-income children to the national parks.

The program is part of an overall administration campaign to help youths learn to enjoy the outdoors, and to become active in the outdoors. Urban kids in particular have little access to the outdoors and, the White House and specialists say, spend too much time on electronic media, an average of 56 hours per week.

## **Just in time for approps, NPS reports on park economics**

Intentionally or not, the Park Service April 22 put great pressure on Congress to appropriate healthy amounts of money for the parks this year by publishing a report on the economic activity they generate.

NPS said that in 2014 the parks produced \$29.7 billion in economic activity and supported nearly 277,000 jobs. Translated, every dollar invested in the National Park System returned \$10 to the economy.

President Obama gave the report prominent mention the same day at an appearance in Everglades National Park to drum up support for his climate change policy (*see previous article.*)

"In 2014, almost 300 million visitors to our national parks spent almost \$16 billion and supported 277,000 jobs," said Obama. "So protecting our parks is a smart thing to do for our economy. That's why I've set aside more public lands and waters than any administration in history."

The problem is Congressional appropriators have no money. Not only did the House Appropriations Committee April 22 slash a fiscal year 2016 spending cap for an Interior appropriations bill, it also has done nothing to remove \$1.4 billion from the bill for what might be considered outside spending.

First, the cap. The appropriations committee established a so-called 302(b) allocation of \$30.170 billion for the Interior and Related Agencies bill, compared to a final fiscal 2015 appropriation of \$30.416 billion. That's a decrease of \$246 million.

Second, the outside influences. Two elements will play a role in fashioning a bill this year - emergency fire spending and county assistance under the payments-in-lieu of taxes (PILT) program. If not removed from the appropriations bill, those two programs could eat up between \$500 million and \$1 billion of the total appropriations allocation.

The ranking Democrat on the House subcommittee on Interior appropriations, Rep. Betty McCollum (D-Minn.) said the allocation, combined with the fire and PILT costs, will make the subcommittee's job "extremely difficult."

"Increases in wildfire costs, contract support, Native American programs and PILT, which is now mandatory, alone will total \$1.4 billion," she said. "These costs leave a great hole in the Interior and Environment allocation that will have to be made up with cuts to other programs."

Arguing against the Congressional thrift, since 2012 several reports have detailed the enormous contribution of outdoor recreation to the nation's economy.

In 2012 a seminal Outdoor Industry Association report held that the total economic activity associated with outdoor recreation totaled \$646 billion per year. That number has since become gospel among elected officials, both Democratic and Republican. On April 22 the White House cited the number in a fact sheet backing the President's appearance in the Everglades.

Separately, on April 16 The Wilderness Society recirculated a report from a PLOS Biology journal that estimated that protected parks, forests and wilderness areas produced \$350 billion to \$550 billion in annual spending.

On top of that comes last week's NPS report of a \$30 billion contribution by the national parks to the economy. Said Secretary of Interior Sally Jewell on release of the NPS economic report, "Our national parks often serve as economic engines for local communities, drawing tourists from around the world who pump money into area stores, restaurants, hotels and more."

The NPS report breaks down the economic impact by agency, with the Blue Ridge Parkway coming in first at \$863,528,700 and the nearby Great Smoky Mountains National Park second at \$806,719,900.

Denali National Park came in third with \$524,279,200 even though only 531,315 people visited the park. That's more money than 10 times as many visitors (five million) to Grand Canyon National Park spent, \$509,528,000.

The Outdoor Industry Association report is available at: <http://outdoorindustry.org/advocacy/recreation/economy.html>.

The Park Service report is available at: <http://www.nature.nps.gov/socialscience/economics.cfm>.

The report referenced by The Wilderness Society is at: <http://journals.plos.org/plosbiology/article?id=10.1371/journal.pbio.100...>)

## **MAP-21 extension likely, as multi-year law fix fades**

Rep. Earl Blumenauer (D-Ore.) said on the House floor a fortnight ago words about surface transportation legislation that his colleagues have been unwilling to mention - Congress will punt on writing a new highway law.

Faced with a May 31 deadline the House and Senate will now almost certainly extend the existing law, Moving Ahead for Progress in the 21st Century Act (MAP-21), for four more months, he said.

"With all the major agenda items on the table this spring for Congress, there is no way that we are going to be able to do anything but extend the May 31<sup>st</sup> transportation deadline, when the funding authorization expires," said Blumenauer, a member of the House Ways and Means Committee that must pay for a bill.

He recommended that the President or Congress itself set a rock hard deadline for action, however unlikely that is. "Let's lay down an absolute deadline," he said. "Let's refuse to let it slide past Oct. 1, 2015. Let's all work together, demanding Congress do its job."

The problem of course is that Congress can't agree on a politically acceptable strategy for coming up with the \$12 billion per year needed to supplement the \$34 billion per year provided for transportation by the Highway Trust Fund. Just to maintain status quo funding would require \$46 billion per year.

Recreation programs in particular are peering down the gun barrel because many politicians object to using gas taxes for non-road purposes. So the less money available for surface transportation, the more danger to recreation.

Where Congress will find the money even for a short-term extension is unclear with the Highway Trust Fund lagging. However the situation is not quite so dire as it was a few months ago because the American people have been driving more this year, and that has put more money into the Highway Trust Fund's tank.

The House Appropriations Committee April 29 approved a fiscal year 2016 Transportation spending bill with highway funding equal to fiscal 2015. But the committee said the measure is "contingent on the enactment of new transportation authorization legislation." So the money is not there yet.

Blumenauer, who is also the leading House proponent of bicycling, has introduced legislation (HR 680) that would simply increase the gasoline tax by 15 cents per gallon over the next three years. The tax is now 18.5 cents per gallon.

President Obama, Senate Environment and Public Works Committee Ranking Democrat Barbara Boxer (D-Calif.) and Sen. Rand Paul (R-Ky.) have all recommended a repatriation tax to make up the difference. Repatriation consists of recovering taxes corporations have avoided by shifting paperwork to foreign countries.

To that end Boxer and Paul introduced a fortnight ago the Invest in Transportation Act of 2015 (S 981). "This bipartisan repatriation proposal will stimulate the economy by bringing back hundreds of billions of American dollars currently sitting offshore back to America and will provide much-needed revenue to the Highway Trust Fund," Boxer said.

But, again, both the Blumenauer bill and the Paul-Boxer bill are politically untenable, right now.

House and Senate leaders and staffers this winter had been pondering a legislative strategy that would use the repatriation money to keep MAP-21 or its successor alive for two or three years. During that extension a blue

ribbon commission would be convened to produce a take-it-or-leave-it, long-term highway financing recommendation. Congress could accept or reject it, but not modify it.

Now it is understood that Hill leaders are considering other ideas, such as dropping mass transit as a Highway Trust Fund recipient, increasing state matching payments and authorizing an increase in the gas tax to kick in after the next election in 2016.

Under the gun to produce a revised or extended MAP-21 are the House Transportation Committee, the House Ways and Means Committee, the Senate Environment and Public Works Committee, and the Senate Finance Committee. All say they are now trying to put together a multi-year bill and funding for it.

For its part the Obama administration March 30 submitted to Congress a draft, six-year surface transportation bill, called Grow America.

Among other things Grow America would keep alive a program that feeds park and recreation activities. That is, the administration recommended that Congress allocate \$847 million to the Transportation Alternatives Program (TAP) in fiscal year 2016, up \$27 million from a fiscal 2015 allocation of \$820 million. The program pays for a group of outdoor initiatives.

The bill would have the TAP allocation, which would receive two percent of highway account money from the Highway Trust Fund, increase marginally each year after that.

## **FS water rights policy gains House and Senate attention**

Western senators and House members introduced legislation (HR 1830, S 982) a fortnight ago that would head off two water policies that the Forest Service has been working on in recent years.

One policy - in its initial form three years ago, but since modified - would have asserted a federal right

to water when a ski resort permit was sought.

The other policy would establish a "consistent approach" to managing groundwater, which the agency does not now have.

The Forest Service may have eased some of the legislators' concerns April 14 at a hearing of the House subcommittee on Water. Leslie Weldon, deputy chief of the National Forest System, said the groundwater policy was on hold and that the water rights policy was being revised.

Of water rights she said a final policy would address just sufficiency of water, and not assert a new right to water. "We believe the final clauses will provide for sufficiency of water, while addressing the concern of not inhibiting market forces associated with water resources," she said.

"The intent will be to make sufficiency of water a requirement of the permit holder. We believe that the final clauses will ensure that ski areas have sufficient water to continue to be able to provide recreation opportunities to the public and economic support to the communities that depend on their revenue," she added.

Of the groundwater policy Weldon said in prepared testimony, "We will continue to work cooperatively with this Committee and the States and will not move forward until we can address the concerns raised. In fact, in recent hearings the Chief of the Forest Service stated that the proposed directive has been put on hold. We will publish a new draft for a new round of public comment before any direction is finalized."

On the bottom line in the policies she said the service would respect states' rights to regulate water. "It is the intent of the Forest Service that nothing in the implementation of our stewardship responsibilities for National Forests and Grasslands infringes on State authority for water allocation and State and Tribal authority for water quality protection," she testified.

House Natural Resources Committee Chairman Rob Bishop (R-Utah) endorsed the postponement of the groundwater rule. "The Forest Service's decision to pull the plug on the current Groundwater Directive is long overdue, and will finally put an end to the needless anxiety that this proposal caused," he said. "There was absolutely no justification for the Directive, and until that justification is made, there will be no Directive. State water management is primarily under the purview of the states and that's precisely where it should stay."

The lead author of the Senate bill, Sen. John Barrasso (R-Wyo.), said, "Despite the Obama Administration's recent attempt to downplay these outrageous water grabs, there is no guarantee that they won't pursue policies like this again in the future. Congress must provide clear legislative direction to federal land management agencies or they will continue to impose restrictions that deny agricultural, recreational and economic activity throughout our communities." Rep. Scott Tipton (R-Calif.) is the lead sponsor of the House bill.

The National Ski Areas Association backed the legislation. "The Water Rights Protection Act would stop the federal government from taking water rights, both surface and groundwater, from private parties in violation of state water law and Fifth Amendment property rights protections," said the association in a statement. "The intent of the bill is narrow - to protect valuable property interests of ski areas and other permittees that use federal land from seizure without compensation by the federal government. Essentially everyone agrees on the need for this protection, given past and current Forest Service policy that demands transfer of valuable water rights to the U.S. without compensation."

During consideration of a fiscal year 2016 budget resolution (S Con Res 11) in late March the Senate approved an amendment from Sen. Cory Gardner (R-Colo.) that would encourage line committees to bar the Forest Service from completing the water rights rule.

The vote was 59-to-41.

The Senate didn't vote on an amendment from Sen. Jeff Flake (R-Ariz.) that would encourage line committees to prohibit the Forest Service from completing a proposed policy governing groundwater.

**Water rights ski resorts:** The Forest Service crafted the disputed policy in 2011 and 2012 ostensibly to clarify the rights of the federal government vis-à-vis ski permit operators under the Ski Area Permit Act of 1986. The implication was that the ski operators on federal land were gaining equity in the form of water rights without compensating the taxpayer, i.e. the federal government.

But U.S. District Court Judge William J. Martinez in U.S. District Court in Colorado on Dec. 19, 2012, threw out the policy on procedural grounds. He said the Forest Service failed to give notice and take comments before inserting the policy in ski resort permits.

So on June 23, 2014, the Forest Service revised its proposal and removed the troubling portion about claims for water rights.

**Groundwater policy:** The Forest Service proposed the groundwater directive on May 6, 2014, that it said would not make substantive changes in water rights.

As Weldon told the House subcommittee last week, "The proposed directive did not specifically authorize or prohibit any uses and did not represent an expansion of authority. The Forest Service recognized and specifically acknowledged in the proposed directives, the role of States in the allocation of water use and protection of water quality."

She added, "The proposed directive would not and was not intended to infringe in any way on State authority, nor would it impose requirements on private landowners or change the long-standing relationship between the Forest

Service and States and Tribes on water."

## Notes

### **Land disposal campaign begun.**

House Natural Resources Committee Chairman Rob Bishop (R-Utah) is putting together a Congressional team to advocate for transferring federal lands to local control, if not ownership. Bishop and six other House Republicans say they will base their campaign on the work of state legislatures that are demanding the transfer of federal lands to them, most prominently Utah. "This group will explore legal and historical background in order to determine the best congressional action needed to return these lands back to the rightful owners. We have assembled a strong team of lawmakers, and I look forward to formulating a plan that reminds the federal government it should leave the job of land management to those who know best," said Bishop. Ranking committee Democrat Raúl M. Grijalva (D-Ariz.) attacked the idea. "The American people overwhelmingly support keeping our National Parks, Forests, Wildlife Refuges and Public Lands right where they are, open to the public for multiple uses, including hunting, fishing, tourism, grazing and conservation. There is no legal authority to give these lands away to developers and no chance the American people will support such a scheme." Sen. Lisa Murkowski (R-Alaska) created a furor March 27 when she persuaded the Senate to approve her budget amendment that favors disposal of the federal estate through sale, transfer or exchange to state and local governments. In a related action Rep. Crescent Hardy (R-Nev.) introduced legislation (HR 1445) last month that would bar federal agencies from acquiring additional land unless they first disposed of an equal amount of land. That bar would only apply if the federal budget were not balanced. Hardy is a member of Bishop's new team. Bishop is in a bit of a tenuous position because he launched a separate campaign two years ago to reach agreement on the management of federal lands in eastern Utah. The Utah Public Lands Campaign was designed to head off the designation of national monuments in the area by the President, if possible.

As we have often documented movements are afoot in several states to obtain federal lands. They include Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah and Wyoming. Most notably, Utah passed a law in 2012 (H.B. 148) that lays claim to 31 million acres of federal land in that state.

#### **House GOP questions bus contract.**

Two senior House Republicans asked the Park Service April 28 why it awarded a bus tour contract for the Washington, D.C. mall for (1) only \$5 million and (2) to a foreign-owned company. In a letter to NPS Director Jonathan B. Jarvis, the Republicans first said the award of a contract that anticipates gross receipts of only \$5 million per year rings false because annual receipts in 2013 were \$8.1 million. If a contract is for \$5 million or less, it does not have to go to Congress. The letter was sent by House Oversight Committee Chairman Jason Chaffetz (R-Utah) and subcommittee on Interior Chairman Cynthia Lummis (R-Wyo.) "The Committee is concerned that NPS may have accepted a lower concession bid solely to avoid triggering the congressional review process," they said. As for foreign ownership, the bid was submitted by a company called Big Bus Tours that was co-owned by an Abu Dhabi firm and a United Kingdom firm. They subsequently sold the business to a United Kingdom company. Said Chaffetz and Lummis, "We are confused as to why NPS chose to award this high-profile contract for tours of historic American landmarks to a foreign-owned company." The House members acknowledged that the law does not forbid foreign companies from obtaining such contracts. We have asked the Park Service for comment.

#### **Electronic NPS passes asked.**

The State of Maine's senators April 21 asked the Interior Department to authorize a pilot program to test the sale of national park passes online and/or through apps. The pilot would be established in Acadia National Park. "Today, it is possible to buy almost anything on a smart phone; from home pizza delivery to booking an airline ticket, it can be done on a phone," Sens. Angus King (I-Me.) and Susan Collins (R-Me.) wrote. "Millennials

- the next generation of park visitors - do just about everything on their phones. Online sales of park passes could help all park visitors to more easily purchase passes to enjoy our National Parks." Indeed, the Park Service has been urged by a number of experts, including its own director Jonathan B. Jarvis, to give greater priority to enticing millennials to the national parks. King and Collins said the pilot could produce money for the parks. They wrote Secretary of Interior Sally Jewell and Jarvis, "The crowning jewel of the park system - Acadia National Park in Maine - could greatly increase its revenue, both for its own use and for the Treasury, by online sales of passes. Acadia is a porous park with many entrances; some visitors to the park do not pay an entry fee, even though they would like to do so. This leaves revenue on the table."

#### **Highest NPS award to Vandergraff.**

Famed for a lifetime of search and rescue missions in Grand Canyon National Park, ranger Bil (one l) Vandergraff last week was presented with the Park Service's highest ranger honor - the Harry Yount Award. Vandergraff has worked the backcountry of Grand Canyon for 25 years. Said Vandergraff, "I found my park 25 years ago and never left. I've had many good days working and patrolling in the remote backcountry of this remarkable place. I am happy that I have been able to play a small role in the long and honorable tradition of protecting our national parks and its visitors." We quote extensively from NPS's press release: "Vandergraff's search and rescue proficiency is legendary. Many times he has concurrently managed multiple search and rescue and backcountry operations and done so safely and effectively. His subject matter expertise and engaging manner, along with his encyclopedic knowledge of the park's trails, routes, and resources have made him a successful incident responder and manager, as well as trainer and mentor." In addition to his work in Grand Canyon Vandergraff co-developed the National Park Service Search Management Action Plan. Harry Yount was the first known national park ranger; he operated in Yellowstone National Park.



**Heinrich wants Kids Outdoors.**

Sen. Martin Heinrich (D-N.M.) introduced legislation (S 1078) April 23 that would encourage states to establish programs to get kids outdoors. The Healthy Kids Outdoors Act would have Congress appropriate \$1 million in fiscal year 2016, \$2 million in fiscal 2017 and \$3 million in fiscal 2018 for the program. Heinrich said the Healthy Kids Outdoors Act would also direct the Interior Department to conduct a study of the state programs. The Obama administration has long attempted to link the benefits of outdoor activity with health among young people. Said Heinrich, who had no cosponsors, "By taking a holistic approach to improving child well-being, this bill would provide our kids the opportunity to gain hands-on outdoor education, while giving them an introduction and lifelong connection to conservation and all that the natural world has to offer."

**Highway officials laud trails.**

An association of state transportation officials, not always a big booster of park and rec programs, last month singled out for praise state programs that promote walking and biking. On Earth Day (April 23) the American Association of State Highway Officials (AASHTO) said that states are taking the lead in bicycling and pedestrian programs. AASHTO lauded a program of the Utah Department of Transportation that encourages kids to walk and bike to their school buses. And it mentioned a program of the Minnesota Department of Transportation that counts bicycling and pedestrians in the state. AASHTO has set up this link, <http://tinyurl.com/kgkvp7n>. State highway officials have not been fans of the federal Transportation Alternatives Program that funnels money into rec programs.

**BlueRibbon gets a new boss.**

The BlueRibbon Coalition said last month that it has hired Idaho State University Professor Martin Hackworth as its new executive director. Hackworth has long experience in consulting with the power sports industry and participating in power sports. BlueRibbon represents powered recreation users and is an active participant in public lands policymaking. Hackworth succeeds Del

Albright who has headed BlueRibbon while it sought a full-time executive director. Gregg Mumm was the last full-time director, serving from 2006 until November 2013. More at [sharetrails.org](http://sharetrails.org).

**Conference calendar**MAY

3-6. **National Ski Areas Association National Convention and Trade Show** in San Francisco, Calif. Contact: National Ski Areas Association, 133 South Van Gordon St., Suite 300, Lakewood, CO 90228. (303) 987-1111. <http://www.nsaa.org>.

3-6. **National Sporting Goods Association Management Conference** in Austin, Texas. Contact: National Sporting Goods Association, 1601 Feehanville Drive, Suite 300, Mt. Prospect, IL 60056-6035. (847) 296-6742. <http://www.nsga.org>.

JUNE

10-13. **International Snowmobile Congress** in Niagara Falls, N.Y. Contact: International Association of Snowmobile Administrators at <http://www.snowiasa.org/>

19-22. **U.S. Conference of Mayors Annual Meeting** in San Francisco, Calif. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, D.C. 20006. (202) 293-7330. <http://www.usmayors.org>.

24-26. **Western Governors' Association Annual Meeting** in Lake Tahoe, Nev. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202. (303) 623-9378. <http://www.westgov.org>

27-July 1. **National Scenic & Historic Trails Workshop** in Nashville, Tenn. Contact: Partnership for the National Trails System at [www.pnts.org](http://www.pnts.org)

JULY

10-13. **National Association of Counties Annual Conference** in Charlotte, N.C. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, DC 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.