

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

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New national monument for Nevada stirs old controversy

Rep. Crescent Hardy (R-Nev.) said May 7 that the White House is contemplating the designation of a 700,000-acre national monument on Bureau of Land Management (BLM) land in the Garden and Coal Valleys of southern Nevada.

Hardy is circulating a draft administration proclamation that would protect the area long recommended for special management by conservationists. The proclamation contemplates using the Antiquities Act of 1906 to unilaterally designate the monument in the Great Basin.

"I am appalled and deeply concerned about the national security implications of President Obama's politically motivated effort to permanently tie up more than 700,000 acres of land, most of which is under one of the most heavily used Military Operating Areas in the United States, and all of which is in Nevada's 4th Congressional district," said Hardy at his website.

Pilots from Nellis Air Force Base fly over the area in their training in the Nevada Test & Training Range.

Despite Hardy's concern, the draft proclamation says a designation would not affect flights. It says specifically, "Nothing in this proclamation shall preclude low level overflights of military aircraft, the designation of new units of special use airspace, or the use or establishment of military flight training routes over the lands reserved by this proclamation."

House Natural Resources Committee Chairman Rob Bishop (R-Utah) repeated Hardy's concerns about possible interference with military operations.

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He also complained that the administration was developing a recommendation without public comment. "Sneaking around in the dark without any public input is a lousy practice and not the way representative government is supposed to work," he said. "If it is good for the country and the land, do it in the light of day through the Congressional process with public input."

Senate Minority Leader Harry Reid (D-Nev.) struck back. Said Reid spokeswoman Kristen Orthman, "Sen. Reid fully supports President Obama if he decides to designate this area, which he has the legal authority to do so. No area is as uniquely Nevada as is the Basin and Range. It deserves protection so our children and grandchildren and the generations of Nevadans to follow can experience one of the most beautiful places on earth."

The designation is not a done deal. And, in this long war over protection of conservation lands, the Obama administration has repeatedly promised to consult with Congress and the public before giving areas protective designation.

However, in a major speech at the National Press Club in 2013 Secretary of Interior Sally Jewell told Congress to act on wild lands bills or watch President Obama designate national monuments unilaterally.

"Congress needs to get moving to pass the dozens of locally-supported bills - introduced by both Republicans and Democrats - that protect the places that Americans care about most," said Jewell. She called on Congress to move a "comprehensive" bill, i.e. an omnibus bill.

But that omnibus bill (PL 113-291 of Dec. 19, 2014) did not include a measure from Reid that in September 2014 would have withdrawn 800,000 acres from the Garden and Coal Valleys from new energy or mineral development.

The draft proclamation describes the possible monument this way: "The Basin and Range area of southeastern

Nevada is an iconic American landscape - the result of tectonic expansion over eons, a backdrop for the rock art of early Americans, and the frame for an important contemporary artwork evoking American forms of millennia past. The area is one of the most undisturbed corners of the broader Great Basin region, which extends from the Sierra Nevada Mountains in the west to the Colorado Plateau in the east."

The conservation group Protect Basin and Range has long advocated protection of the area. It says such protection would allow outdoor recreation and grazing to continue, "while protecting the region's natural beauty, wildlife, and rare plants."

In February 2010 the administration infuriated western Republicans on the monuments front in an internal Interior Department memo said the department "is considering" the designation of 14 national monuments, all managed by BLM, and the acquisition of billions of dollars of private land. The Heart of the Great Basin was included in the administration list.

The 14 possible BLM monuments were located in Arizona (1), California (4), Colorado (1), Montana (1), Nevada (1), New Mexico (2), Oregon (1), Utah (2) and Washington (1). The Interior document says 1,618,140 acres would be involved, including 397,210 acres of state and private land. Acquisition of the land would cost more than \$2 billion.

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

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

Budweiser NPS deal called inappropriate for Centennial

A national environmental group is questioning a partnership between the Park Service and Anheuser-Busch, the company that makes Budweiser beer.

Public Employees for Environmental Responsibility (PEER) is uneasy as well about the totality of a Park Service campaign to establish a \$1 billion endowment as part of its 2016 Centennial campaign, with business partners contributing to the pot.

PEER Executive Director Jeff Ruch suggested a partnership with a beer company is not the best way for NPS to invite younger people to the parks, a lead goal of the Centennial campaign. "If the Park Service thinks its path to 'relevancy' runs through alcohol promotions, then America's best idea has truly lost its way," he said.

Budweiser announced April 22 that it would support the parks with a reported \$2.5 million contribution in return for the rights to use images of the Statute of Liberty on its products.

"We want to encourage a new generation of beer drinkers to get out there and see what America is made of," said Brian Perkins, a Budweiser vice president. "And where better than in America's national parks?"

Interim National Park Foundation President Dan Wenk is in agreement. He provided *FPR* with this statement: "Budweiser is one of several corporate partners making the Find Your Park campaign possible. In the consideration process, Budweiser's commitment to corporate social responsibility was very apparent and is the centerpiece of our partnership. They have done excellent work supporting the environment, community service and military families, and their philanthropic focus aligned well with the current needs of the national parks."

In a related Centennial partnership the foundation said last

month that it would collaborate with the Walt Disney Company to conduct a program to get 500,000 kids to visit the national parks over the next three years. Disney will serve as lead sponsor of the foundation's Open Outdoors for Kids program.

In a third recent agreement the foundation said April 29 that philanthropist David Rubenstein will contribute \$5.37 million for the restoration of the Iwo Jima Memorial in Arlington, Va. The foundation and the Park Service said jointly that the Rubenstein gift is part of the Centennial campaign.

Rubenstein has repeatedly made significant donations to the National Park System over the last four years. After a 2011 earthquake he paid \$7.5 million of the \$15 million required to restore the Washington Monument. Last July he donated \$12.3 million to restore Arlington House, the home of Robert E. Lee. In September he donated \$5 million for the White House Visitors Center. And in November Rubenstein gave \$10 million for the renovation of Montpelier, the home of President James Madison.

For all the donations the Park Service Foundation and the Park Service have a long way to go to meet their goal of a \$1 billion endowment for the parks. Said Ruch, "They would need about 400 Budweiser-size deals."

Ruch said his group will be monitoring the partnerships. He said he was particularly concerned about situations such as a 2010 controversy that erupted when Grand Canyon National Park attempted to ban water bottles.

When NPS changed its mind about the ban at the request of NPS Director Jonathan B. Jarvis, PEER charged that NPS had caved to pressure from the Coca-Cola Company, which sells bottled water.

Finally, on Dec. 14, 2011, the Park Service issued a new water bottle policy, not just for Grand Canyon but for all units. The policy allows superintendents to ban water bottles if they first obtain approval from the

applicable regional director. The superintendents must first submit a request in writing.

Said Ruch this week, "The role of Coal-Coal concerns us because they may exercise influence over the parks in return for contributions." And, he said, that concern extends to other contributors.

Centennial campaign background:

It is understood that the Park Service has submitted to the White House a draft Centennial bill that would include an endowment provision. The endowment would begin with a number of levies from existing programs, such as interest on unspent entrance and recreation fees, interest on concessioner fees and revenues from increased entrance fees.

A Park Service spokesman would not comment on the legislation, saying, "As with any potential or pending legislation, National Park Service comments will be made before the appropriate Congressional committee."

The endowment would be separate from a matching grant program to address a maintenance backlog that is also a key element in the Centennial campaign. Sens. Maria Cantwell (D-Ore.) and Rob Portman (R-Ohio) are writing legislation to set up such a program. They persuaded the Senate to recommend matching grants in a fiscal year 2016 Congressional budget.

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

Cantwell and Portman said in a fact sheet that Congress successfully tried such a challenge program in fiscal years 2018 and 2010 with federal contributions leading to private donations of \$50 million. A new challenge grant program, perhaps with \$100 million per year, would allocate money for maintenance needs.

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

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

But the concern of Park Service endowment backers is that Congressional appropriators would reduce appropriations commensurately with donations and interest, with no net gain.

Congress reportedly considers seven-month MAP-21 extension

House and Senate Republican leaders had not come up with a plan to extend the current surface transportation law.

Those leaders were reportedly considering an extension through December. But, transportation interests had recommended a much shorter extension of the existing law, Moving Ahead for Progress in the 21st Century Act (MAP-21), just four months. MAP-21 is scheduled to expire on May 31.

But Congressional leaders want more time to not only develop a long-term successor law to MAP-21 but also to figure out how to pay for it.

House Majority Leader Kevin McCarthy (R-Calif.) broached the seven-month extension idea to Hill reporters at a recent press conference.

TAP attacked: Meanwhile, the influential conservative think tank the Heritage Foundation this week published a paper that took a shot at a Transportation Alternatives Program. It currently finances recreation/trails programs at \$820 million per year.

Said the paper written by Heritage research assistant Michael Sargent, "Other programs include the Transportation Alternatives Program, which spent \$820 million in 2014 on undertakings such as sidewalks, bike paths, scenic overlooks, vegetation management, and recreational trails. These diversions sap funds that could be spent on the highway system – the purpose of the highway trust fund – and shortchange the motorists and shippers that pay directly into the system through fuel taxes."

But unless Congress approves an extension for MAP-21, whether short-term or long-term, there will be no money for transportation alternatives or any transportation programs. 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.

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 May 13 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.

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 an Invest in Transportation Act of 2015 (S 981).

In an even longer shot Rep. Earl Blumenauer (D-Ore.) 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.

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

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 the Transportation Alternatives Program (TAP) that feeds park and recreation activities. That is, the administration recommended that Congress allocate \$847 million to 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.

The 361-page draft Grow America that the administration submitted to Congress March 30 also recommends a \$277 million increase in spending on federal agency and Indian roads for fiscal year 2016, from \$1 billion in fiscal 2015 to \$1.277 billion in fiscal 2016. Much of that increase would be used for large, expensive projects.

By category the Indian and federal agency account would distribute \$507

million to tribal roads, \$370 million to federal lands (80 percent Interior Department, 15 percent Forest Service and five percent Corps of Engineers), \$250 million to a federal lands access program and \$150 million for nationally significant federal land tribal projects.

The last nationally significant project program is new.

FS ponders development permit just south of Grand Canyon

The Forest Service is asking public comment until June 3 on a proposed special use permit that could lead to massive development near Grand Canyon National Park.

The applicant is seeking roadway and utility easements on land managed by the Kaibab National Forest in Arizona. The easement would help the Stilo Development Group build housing units and retail space one mile from the South Rim of Grand Canyon.

In an announcement the Forest Service last month it said it would prepare an environmental assessment on the proposal. Environmentalists object to the Forest Service even entertaining the application.

"The Forest Service is putting Grand Canyon National Park in the crosshairs by considering Tusayan's dangerous, damaging plan for a mega-resort," said Kevin Dahl of the National Parks Conservation Association. "This proposal is not in the public interest and is one of the greatest threats Grand Canyon National Park has seen in its history. The Forest Service can and should have rejected it out of hand."

Stilo has been working on the project for the last two decades and has obtained the approval of the small community of Tusayan (population 580). The proposal calls for the construction of 2,200 homes and three million square feet of business space.

The developer has acquired private land within the Kaibab National Forest adjacent to the park.

The Park Service fears the development would quadruple the town's demand for water, putting pressure on water now used to sustain the environment in the park. But the developer says it has obtained a supply of water from the rights held by a nearby rancher.

Now Stilo is seeking approval of the Kaibab National Forest for road and utility access across public lands.

Stilo is encouraging residents of Tusayan to make their voices heard by the Forest Service. The developer said recently in an open message to the town's residents, "We expect thousands of people who have never set foot in Tusayan to tell the Forest Service what's best for your town. Don't let your voice be silenced by these self-professed stakeholders who don't know what it's like to live in a town with limited housing and amenities."

Separately, the Navajo Indian tribe has proposed a development east of the South Rim consisting of restaurants, hotels and shops on tribal land. The tribe has also proposed the construction of a Grand Canyon Escalade gondola down to the canyon floor. The proponents say that few tourists have the fitness or energy to trek to the canyon floor, and this would provide access to them.

At issue in the Navajo proposal is who owns the sides of the canyon. The tribe says it has historical rights to the land down to the high-water mark. But NPS says the federal government owns the land.

The Kaibab National Forest scoping packet is at: www.fs.usda.gov/goto/TusayanEasement. Stilo provides background information on its proposal at <http://www.tusayansfuture.com/>.

Wetlands rule critics attack proposal from all sides

With the help of some Democrats House and Senate Republicans are going all out to block - or rewrite - a proposed Obama administration wetlands permitting rule.

On May 12 the House approved legislation (HR 1732) that would require withdrawal of the rule. The rule would enlarge the definition of wetlands activities requiring permits. The vote was 261-to-155, with dozens of Democrats joining the Republican majority.

The White House weighed in immediately and promised a veto. "More than one in three Americans get their drinking water from rivers, lakes, and reservoirs that are at risk of pollution from upstream sources," said the Office of Management and Budget. "The protection of wetlands is vital for hunting and fishing. When Congress passed the CWA in 1972, to restore the Nation's waters, it recognized that to have healthy communities downstream, we need to protect the smaller streams and wetlands upstream."

On May 1 the House had approved separate legislation (HR 2028) that would forbid the Corps of Engineers from spending any money to implement a proposed rule of April 21, 2014.

The Senate has been just as active. A fiscal year 2016 Congressional budget (S Con Res 11) approved by Congress May 5 recommends that line committees block the rule. On cue on April 30 Sen. John Barrasso (R-Wyo.), joined by three Democratic senators - Joe Donnelly (D-Ind.), Heidi Heitkamp (D-N.D.) and Joe Manchin (D-W.Va.) - introduced legislation (S 1140) to stop the rule.

This latest flurry of legislation was touched off April 6 when EPA Administrator Gina McCarthy and Assistant Secretary of the Army (Civil Works) Jo-Ellen Darcy sent to the White House a proposed final rule.

McCarthy and Darcy said they have listened to public complaints and have revised a proposed April 21, 2014, rule to meet those complaints. "In the final rule, people will see that we made changes based on those comments, consistent with the law and the science," they said. "We've worked hard to reach a final version that works for everyone - while protecting clean water."

The draft rule would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act. In addition to permits for navigable waters that are already regulated the administration would also require permits for seasonal streams, wetlands near navigable waters and other waters.

But Republicans - joined by a handful of Democrats - have rebelled. As Sen. Barrasso said on introducing S 1140, "Under this new rule, the new rule they are proposing, isolated ponds could be regulated as waters of the United States. This is the kind of pond that might form in a low-lying piece of land with no connection to a river or a stream."

On the House floor Rep. Mike Simpson (R-Idaho) argued that the proposed rule would illegally expand the definition of a navigable water to make even intermittent streams subject to regulation. "So while there may be a desire for clarity on the issue of Federal jurisdiction, providing clarity does not trump the need to stay within the limits of the law," he said. "The proposed rule would expand Federal jurisdiction far beyond what was ever intended by the Clean Water Act."

But. Rep. Don Beyer (D-Va.) argued that vast expanses of wetlands across the country are in danger of being destroyed without a clear permitting rule. "If Congress blocks this proposal to protect clean water, 20 million acres of wetlands nationwide will continue to be at risk. Stopping this proposal will also impact the small businesses and communities that rely on clean water," he said.

Commodity users of the public lands have almost universally opposed the proposed rule, while sportsmen and environmentalists have supported it. Hunters and fishermen who depend on wetlands for habitat are particularly vociferous in their backing of the rule.

Said Steve Moyer, Trout Unlimited's vice president of government affairs, "Trout Unlimited strongly supports the Clean Water Act rule

because it will ensure protection of millions of miles of headwaters streams and wetlands, which are critically important to the health of downstream waters and fish and wildlife habitat.”

House bills: Measures in the House that would block the rule include: an Energy and Water appropriations bill (HR 2028) that the House approved May 1; a stand-alone bill (HR 1732) that the House approved May 12; and a stand-alone bill (HR 459) that more than 110 House members introduced, led by Rep. Paul Gosar (R-Ariz.)

Senate bills: Measures in the Senate that would block the rule include: a recommendation from the Congressional Budget (S Con Res 11) based on an amendment from Barrasso; the stand-alone bill (S 1140) from Barrasso; a stand-alone bill (S 1178) from Sen. Jeff Flake (R-Ariz.) that would require EPA and the Corps to conduct studies before completing a rule; and a stand-alone bill (S 980) from Sen. Rand Paul (R-Ky.) that would establish a new wetland permit policy. Paul’s bill would attempt to define somewhat precisely what navigable waters are, and therefore should be regulated.

Future of LWCF closely eyed in money and other panels

Appropriations committees in the next few weeks will be watched to see if they follow through with major changes to the Land and Water Conservation Fund (LWCF) recommended by key Republican Sen. Lisa Murkowski (R-Alaska).

Murkowski, who chairs the subcommittee on Interior appropriations, is on record favoring revisions to LWCF. And, as chair of the subcommittee she will be in position to revise the law in a fiscal year 2016 appropriations bill, when the time comes.

Murkowski held an extensive hearing on the possible reauthorization of the law April 22 in the Senate Energy Committee that she also chairs. That suggests she might attempt to move a stand-alone authorization bill through Congress to modify LWCF, if she doesn’t

act in an appropriations bill.

Either way, the Senate encouraged itself to reauthorize LWCF when it gave final Congressional approval May 5 to a fiscal year 2016 budget (S Con Res 11). The budget simply says it makes room for “Federal programs for land and water conservation, including the Land and Water Conservation Fund.”

If it comes to that, Congress could always extend the existing LWCF law beyond its scheduled expiration date of September 30. That could be done in an appropriations bill or in some other measure.

Murkowski at her April 22 hearing made clear that she wants to see some of the \$900 million authorized each year by LWCF spent on federal land management agency maintenance, particularly in the Park Service.

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

Murkowski also said the state side of the program should be given greater priority vis-à-vis federal land acquisition. “When we talk about the Land and Water Conservation Fund Act these days, it is almost exclusively about federal land acquisition,” she said at the April hearing “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.”

Murkowski said the original LWCF anticipated that state grants would receive 40 percent of the annual distribution but in fact they receive only about 15 percent.

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).

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.

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.

House appropriators begin work on some spending bills

Now that an austere Congressional budget and equally austere appropriations spending caps are in place, appropriations subcommittee are beginning to write fiscal year 2016 spending bills.

Neither the House Appropriations Committee nor the Senate Appropriations Committee is saying when it will tackle the unenviable job of writing an Interior and Related Agencies bill.

But House appropriators are a bit ahead of their Senate counterparts because they are already at work on spending measures. On May 1 the full House approved a fiscal 2016 Energy and Water bill (HR 2028) by a vote of 240-to-177.

Among other things HR 2028 would forbid the Corps of Engineers from spending any money on a regulation that would expand the definition of a wetland requiring a Clean Water Act permit for land disturbance. (See *related article page 6.*)

Then on May 13 the House Appropriations Committee approved a Transportation appropriations bill.

As for an Interior bill, the House committee would not offer a guess to a possible date when work would begin. The committee did approve a spending ceiling - a so-called 302(b) allocation - of \$30.170 billion, compared to a final fiscal 2015 appropriation of \$30.416 billion. That's a decrease of \$246 million.

On the other side of the Hill Senate Appropriations Committee Chairman Thad Cochran (R-Miss.) May 5 said he would tackle shortly the 12 appropriations bill his committee must move.

"I expect the Senate Appropriations Committee to write 12 appropriations bills that conform to the spending guidelines in this resolution," he said. "This will be a challenge, but one that we fully intend to meet by producing responsible, thoughtful bills to meet our commitments to our national security and the American people."

All this appropriations activity was set up when the Senate May 5 gave final approval to a fiscal 2016 Congressional budget (S Con Res 11). It establishes a severe spending ceiling for natural resources programs, particularly appropriations.

The budget also recommends - but does not require - major park and recreation policy changes in the areas of the Park Service Centennial, the Land and Water Conservation Fund, federal land disposals, emergency fire spending and more.

While those recommendations are just recommendations, the budget does set in motion something called a reconciliation process that could translate the policy recommendations into hard legislation.

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.

Before the Senate approved S Con Res 11 May 5 by a vote of 51-to-48, the House approved it April 30 by a vote of 226-to-197. A House-Senate conference had reached agreement on the budget April 28.

The most significant, immediate impact of the budget is to set overall spending ceilings for military and domestic programs. The House Appropriations Committee has translated its ceilings into spending caps for specific appropriations bills.

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.

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

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. (*See related article page 3.*)

No Senate floor amendment was needed for the Land and Water Conservation Fund because, coming out of committee, S Con Res 11 already carried a recommendation that it be made permanent. (*See previous article.*)

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.

Forest Service expects fierce and expensive fire season

Forest Service Chief Tom Tidwell said last week that the Forest Service will almost certainly run out of fire-fighting money this year.

"Once again this year we are predicting there is a 90 percent chance that we will not have enough money and we will have to look at transferring funds," he told the Senate Energy Committee at a hearing on the nation's wildfire situation.

The Forest Service expanded on the chief's statement in a press release. "The forecast indicates there is a 90 percent chance that this year's Forest Service fire suppression costs will be between \$794 million and \$1.657 billion, with a median estimate of \$1.225 billion, potentially forcing the diversion of funding from other vital programs to support suppression operations," it said.

"Any costs above the median is greater than the '10 year average' and would force the Forest Service to leverage funding from other land management programs."

Sen. Ron Wyden (D-Ore.), Sen. John McCain (R-Ariz.) and Rep. Mike Simpson (R-Idaho) have introduced legislation (S 235, S 508, HR 167) that would shift the cost of fighting the one percent of the worst emergency fires to disaster funding, and out of appropriations bills.

McCain would also require the Forest Service to "mechanically treat" 7.5 million acres of forest to reduce the chances of fire. He said recently he and Wyden are talking about their two bills.

How Congress pays for the most expensive fires that go over annual appropriations ceilings matters to park

and recreation programs because those extra costs to the tunes of hundreds of millions of dollars come out of appropriations for other programs, including park and rec operations.

In addition the Forest Service in particular must borrow from line activities - including recreation - to pay for the expensive fires until Congress comes up with a payback appropriation. So it's a double hit.

At the Senate hearing this week Tidwell put in a plug for the legislation. "It is past time - and some of you are tired of me talking about this - but it is past time to find a solution to stopping the practice of shutting down operations in the fall and asking for more money."

Separately, Sen. Mike Crapo (R-Idaho) said May 5 that more than 200 groups around the country have endorsed the Wyden and Simpson bills. The groups include the Western Governors' Association and the National Rifle Association.

"These groups are helping sound our call to action, which became even more urgent today with news that the fire outlook is worsening," said Crapo, referring to Tidwell's prediction of a 90 percent chance of running out of money.

Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) sounded sympathetic, without promising to endorse the Wyden or McCain bills.

"We need a paradigm shift from fire control at all costs to actual fire management," she said. "So it's my hope that we can implement a wildfire policy that responsibly funds wildfire suppression needs, ends the unsustainable practice of fire borrowing, helps fire-wise our community, and makes the necessary investments in a full suite of fuel treatments."

Ranking committee Democrat Maria Cantwell (D-Wash.) is already a cosponsor of the Wyden measure. At the hearing she said she intends to introduce a bill to better coordinate fire fighting operations between the

Forest Service and the Federal Emergency Management Agency (FEMA).

Cantwell said that in the Carlton Complex fire in the State of Washington last year communications between fire fighters and local people were disrupted. The fire took out 353 homes.

"So one thing I will be calling for is better coordination between the Forest Service and FEMA on communication responses during these natural disasters," she said. "If they are becoming worse, we need better memoranda of understanding that require communications be set up right away so that our communities can continue to deal with these disasters."

Tidwell said indeed wildfires are becoming worse. "Not only are fire seasons longer and hotter and drier - they are 60-to-80 days longer than just 15 years ago - we have over 50 million acres of wildland urban interface," he said. "Often that is the first thing we have to do with every fire is to take action to protect that community before we can take on suppression."

He said that hazardous fuels treatments in the wildland urban interface is "making a difference." He said, "This year we plan to treat another 2.5 million acres for hazardous fuels."

The Wilderness Society submitted testimony to the committee that said more money for emergency fires would also benefit rec programs. "It's important to note that several Forest Service programs would further reduce the cost of management and fire suppression and advance conservation, watershed restoration and recreational access on our national forests - with additional funding that would be available as a result of cutting fire suppression costs," said Cameron Witten, government relations associate at the society.

Among those programs are the Land and water Conservation Fund and Forest Legacy, he said, that help consolidate federal areas with the acquisition of inholdings.

The National Interagency Fire Center posted its monthly wildfire prognosis report May 1, and it predicts a dangerous summer. It says that the National Oceanic and Atmospheric Administration's Climate Prediction Center "expects above normal temperatures to continue for Alaska and across the West for the period June-August. Warmer-than-normal temperatures are also favored in the extreme southeastern U.S. Below normal temperatures are expected for most of Texas.

"Above median precipitation is expected to expand across the Intermountain West from West Texas through the Rockies and into the Great Basin. Southern Alaska and the southeastern U.S. are also expected to have above median precipitation. Below median precipitation is forecast for much of Washington."

Notes

Yellowstone hikes entrance fees.

As part of a nationwide Park Service initiative to increase fees, Yellowstone National Park and Grand Teton National Park May 11 announced a new schedule of entrance fees. The vehicle fee for a visit of 1-7 days will increase from \$25 to \$30 for each park. A separate pass will be required for each park. However, visitors may obtain a two-park, 1-7 day pass for \$50. Individual visits will increase from \$12 to \$15 for Yellowstone and \$20 for both parks. Annual passes just to Yellowstone will jump from \$50 to \$60. As *FPR* first reported last September the Park Service in August 2014 told individual parks to consider fee increases, for the first time in eight years. A proposed, agency-wide schedule anticipates most units will increase fees, but if the public objects individual parks may phase in increases over three years. The proposed fee schedule places park units in groups one through four with group four the most expensive parks, such as Yellowstone, and group one the least expensive. Yellowstone May 11 matched the group one schedule with an annual pass increase from \$50 to \$60, a per vehicle fee increase from \$25 to \$30 and a per person increase from \$12 to

\$15. Yosemite National Park in January increased its fees and other park units are following suit.

Bill would help FS trails. Sens. Mike Enzi (R-Wyo.) and Michael Bennet (D-Colo.) cosponsored legislation (S 1110) last month to attack a Forest Service trail maintenance backlog through partnerships with volunteers and outfitters. The bill sets a goal of doubling partners' work on trails over the next five years. It would do that in part by having the service identify up to 15 priority areas for maintenance work. Congress of course has set tight appropriations bill ceilings for fiscal year 2016. In fiscal 2015 Congress appropriated \$77.5 million for trail improvement and maintenance and in fiscal 2016 the administration has requested \$82.5 million. However, the trail maintenance backlog in the Forest Service has reached \$314 million and is growing. A special subset of the bill would authorize the service to reduce fees charged outfitters and guides in exchange for trail maintenance work. A copy of the bill is at: <http://www.enzi.senate.gov/uploads/WEI15450.pdf>.

Sportfishing bill out of committee. The House Natural Resources Committee approved legislation (HR 1335) last month to loosen somewhat restrictions on marine fishing in the nation's oceans. The bill pleased commercial and recreational fishermen because it would direct commissions overseeing fishing limits to revisit limits on takes. The bill to amend the Magnuson-Stevens Fishery Conservation Act was approved by the committee in a 21-to-14 vote. Bill sponsor Rep. Don Young (R-Alaska) said, "Through a number of modest but necessary reforms, this legislation ensures the needs of our fisheries resources are balanced with the needs of our fishermen and coastal communities. By reauthorizing the Magnuson-Stevens Act, we allow for this important law to more closely reflect the current science, management techniques and knowledge of our fishermen and regional management councils." But ranking committee Democrat Raúl M. Grijalva reflected the concerns of conservationists that the bill would lead to overfishing. "This

bill is an overreaching, unpopular overhaul of a law that doesn't need it. Scientists, conservationists and fishermen alike oppose this effort, and I see no reason to support it," he said. Recreational fishermen are on board. Jeff Angers, president of the Center for Coastal Conservation, said, "The recreational fishing community owes a debt of gratitude to Chairman Rob Bishop and Congressman Don Young for incorporating meaningful changes to recreational fisheries management into the reauthorization of the nation's marine fisheries law."

House gives Drakes Bay a platform. The House Natural Resources Committee last month gave the owner of a former oyster farm in Point Reyes National Seashore that the Park Service shut down an opportunity to make his case. Kevin Lunny, owner of the Drakes Bay Oyster Company, told the committee, "On Dec. 31, 2014, the National Park Service forced our iconic eighty-year-old oyster farm to shut down. Let me be clear, we did not fail as a business. This was not bad luck. Rather, the Park Service engaged in a taxpayer-funded enterprise of corruption to run our small business out of Point Reyes." Subcommittee on Oversight Chairman Louie Gohmert (R-Texas) said, "I want it seared on the records of this Congress and on the minds of its Members exactly what happens when we leave individuals to fend for themselves against this federal government. Why else are we here if not to hold accountable those charged with executing the laws that we establish?" However, the Ninth U.S. Circuit Court of Appeals on Sept. 3, 2013, upheld a Department of Interior decision to remove the company from Point Reyes. The Lunnys appealed the decision to the U.S. Supreme Court but in June 2014 the panel said it would not take up the case. And, even though the Park Service won the lawsuit, it entered a settlement that allowed the company to finish operating throughout 2014 and had the Park Service paying relocation benefits for the company's 30 employees. At the time of the court order the Lunny family was optimistic that it could pursue new enterprises.

Boxscore of legislation

Appropriations Fiscal 2016

No bill yet. Administration submitted request February 2. Budget recommends substantial programmatic increases, full funding for LWCF, \$826 million for NPS Centennial, FLREA extension.

Fiscal year 2016 budget

H Con Res 27 (Price), S Con Res 11 (Enzi). House approved April 30. Senate approved May 5. Would freeze spending. Senate recommends line committee action on NPS Centennial, LWCF, fire, PILT.

Full-year appropriations Fiscal 2015

HR 83 (Christensen). President signed into law Dec. 16, 2014, as PL 113-235. Roughly maintains fiscal 2014 spending. Includes PILT money. Does not include emergency fire-fighting account.

Omnibus public lands bill 2014

HR 3979 (McKeon). President signed into law Dec. 19, 2014, as PL 113-291. Includes 96 bills including measures to designate several new and expanded national parks, including a Manhattan Project National Park, a Delaware National Park; revises Forest Service cabin fees, protects the Rocky Mountain Front, designates wilderness, and more.

Land and Water Conservation Fund

S 338 (Burr), S 890 (Cantwell), HR 1814 (Grijalva). Senate hearing April 22. Grijalva introduced April 15. All would extend program at \$900 million per year in perpetuity. S 890 and HR 1814 would guarantee the money each year.

Urban park fund

HR 201 (Sires). Sires introduced January 7. Would authorize HUD grants and HUD loans to provide assistance to urban parks.

Federal land recreation fees

HR 1991 (Bishop). House committee approved April 29. Bishop would extend existing law year through Sept. 30, 2017.

Emergency fire spending

HR 167 (Simpson), S 235 (Wyden), S 508 (McCain). Simpson introduced January 6. Wyden introduced January 22. McCain

introduced February 12. All would shift emergency fire fighting costs out of line appropriations and into disaster spending. McCain would also increase timber harvests.

Monument restrictions

HR 330 (Young), HR 488 (Amodei), S 437 (Murkowski), HR 900 (Labrador), S 228 (Crapo). Young introduced January 13. Amodei introduced January 22. Murkowski introduced February 10. Labrador introduced February 11. Crapo introduced January 21. Young, Murkowski, Labrador and Crapo would require Congressional approval of any national monument.

Wetlands regulations

HR 594 (Gosar), HR 2028 (Simpson), S 1140 (Barrasso). House approved HR 2028 May 1. Barrasso introduced April 30. Would forbid completion by EA of regulations expanding kinds of water bodies requiring wetlands protection permit. 141 cosponsors.

Surface transportation

HR 680 (Blumenauer). Blumenauer introduced February 3. Would increase the gasoline tax to help pay for surface transportation programs.

Fed lands open in government closure

S 146 (Flake). Flake introduced January 12. Would allow states to operate national parks, national refuges and national forests in the event of a government shutdown.

Public lands open to hunting

S 406, S 556 (both Murkowski), HR 528 (Benishek). Benishek introduced January 26. Senate hearing March 12. Would declare public lands open to hunting and fishing unless specifically closed.

California Desert

S 414 (Feinstein). Feinstein introduced February 9. Would protect 1.6 million acres of the California Desert, including two new national monuments.

FS travel rule

HR 1555 (Walden). Walden introduced March 23. Would halt all work under 2005 Forest Service travel management rule.