

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

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CR reopens government at least for a few months

In the midst of a great deal of turmoil the White House and Congress October 16 completed a continuing resolution (CR) that will keep the government in business on an interim basis.

The final bill (HR 2775), put together by Senate Majority Leader Harry Reid (D-Nev.) and Senate minority Leader Mitch McConnell (R-Ky.), funds the government through January 15 (and extends the nation's debt ceiling through February 7.)

Separately, the House and Senate agreed to disagree on a fiscal year 2014 budget (H Con Res 25), triggering a conference committee on the budget. The conferees are to report back by December 13. Ending the budget sequestration, or developing a substitute for it will be job one for the conferees.

Further down the line parties such as Reid continue to push for a grand budget agreement that could authorize secure funding for years to come.

In a letter to Speaker of the House John Boehner (R-Ohio) last week, Reid mentioned national parks and a Farm Bill as possible pieces of such a budget agreement.

Speaker of the House John Boehner (R-Ohio) proposed his own version of a short-term funding CR, but one that would have modified President Obama's health care program. However, he was unable to convince the Senate to accept it.

The CR contains several significant outdoor provisions, including:

FLREA: The CR extends the existing federal recreation fee law by one year until Dec. 8, 2015. The extension of the Federal Lands Recreation Enhancement Act (FLREA), which was due to expire on Dec. 8, 2014, gives Congress time to write a new law.

State repayment: The CR authorizes reimbursements to states for carrying out federal programs during the shutdown. That should apply to the five states that used their own money to pay NPS employees to keep 12 units of the National Park System operating (see following article.)

Fire money: The CR appropriates \$636 million for wildfire suppression - \$600 million for the Forest Service and \$36 million for the Interior Department. The CR allows use of the money to pay back operational programs that the government tapped to pay fire-fighting costs in fiscal 2013, particularly Forest Service operations.

Eisenhower commission: The CR keeps an Eisenhower Memorial Commission in business until January 15. Some, but not all, House Republicans disapprove of the proposed design of the memorial prepared by architect Frank Gehry. Led by House subcommittee on Public Lands Chairman Rob Bishop (R-Utah), they want to shut off money for the commission throughout fiscal 2014. But HR 2775 keeps the commission alive temporarily.

As for the turmoil, the Park Service was in the eye of the storm after it shuttered all 401 national parks, as well as most concessions operations, when the government shut down October 1.

Republican governors and Congressmen and some Democrats said NPS had gone overboard and could have left many parks/concessions open. The Interior Department apparently heard the complaints because it agreed October 11 to allow some states to step in and pay for operations of some units of the National Parks System.

Similarly, last week Republican critics began to attack the administration for closing backcountry wildlife refuges and national forest campgrounds (see article page 6.)

The broader political situation in Washington, D.C., is familiar. The House approved an interim fiscal year 2014 spending bill (HJ Res 59) several times a fortnight ago that would have halted in whole or in part President Obama's health care initiative. The House most recently approved the measure September 30 by a 228-to-201 vote.

The Senate rejected the House bill most recently on October 1 and approved its own version of a continuing resolution (CR) by a vote of 54-to-46.

Because of the impasse over the interim spending bills there was no money to keep the government running.

In addition to limiting access to the public lands, the dispute also had hung up the \$636 million in fire-fighting money that the House and Senate both approved in their CRs.

The final CR enacted October 16 pegs spending through January 15 at fiscal 2013 levels, minus sequestration. However, the separate budget bill (H Con Res 25) directs a House-Senate conference committee to find ways to eliminate, or revise, the sequestration.

The House Appropriations Committee began to address its subcommittee-passed, full fiscal year 2014 Interior and Related Agencies spending bill (no number yet) July 31, but made little progress. The bill is controversial because it would appropriate so little money that even some Republicans object. So it may never reach the House floor.

In the Senate the chairman and ranking member of the subcommittee on Interior and Related Agencies August 1 published a proposed spending bill. Again, the Senate draft may never reach the floor, but this time because of an excess of money.

The House October 2 approved a Republican leadership proposal (HJ Res

70) to appropriate money only for the Park Service through December 15 by a 252-to-173 vote. But Senate Democratic leaders refused to bring the resolution to the floor because they object to piecemeal approaches to governance.

According to an analysis by the Land Trust Alliance the budget sequestration law will take an even larger chunk out of fiscal year 2014 appropriations than it did in fiscal 2013. The trust projects a 7.2 percent, across-the-board reduction from sequestration, compared to 5 percent in fiscal 2012.

But that assumes Congress will not revise the sequestration impact during negotiations on fiscal 2014 spending levels. The interim spending agreement now moving through Congress anticipates such negotiations over the next three months.

The trust says that natural resource programs have grown just two percent over the last 30 years.

Looking ahead, the Outdoor Industry Association and its members worry that, even though the most recent impasse has ended, the government will reach a new gridlock just before the holiday season. They wrote Congress October 15 and expressed concern both about long-term and short-term problems from the shutdown(s).

"We are deeply concerned that further delay ending the government shutdown will push the next crisis right on top of the holiday retail season," said Kirk Bailey, the association's vice president of government affairs. "For many businesses in America, the holiday season represents 30-35 percent of all sales for the year, and holiday sales determine final profit levels and fiscal health for retailers and brands. The nation does not need another obstacle to the ongoing economic recovery."

Under pressure, NPS let five states open national parks

Secretary of Interior Sally Jewell gave in to state complaints and on

October 11 agreed to allow five states to pay for operation of units of the National Park System. The park units opened the next day, October 12.

The agreements were rendered moot of course by the passage October 16 of an interim spending bill (HR 2775).

The agreements with the governors of Arizona, Colorado, New York, South Dakota and Utah didn't allow the states to operate the parks themselves. Instead the states were authorized to spend up to \$3.2 million of their own money to pay NPS to operate the parks for as long as 10 days.

All 401 national parks were closed October 1 with the federal government shutdown, at least until the five states offered to pay to keep a few units open.

Utah Gov. Gary Herbert (R-Utah), who took the lead in the state negotiations with Jewell, said the secretary agreed to allow the state of Utah to pay the Park Service up to \$1.67 million to keep eight National Park System units open for 10 days at \$166,572 per day.

Herbert said Jewell did not promise to compensate the states after the government closure is over. Said a Utah state announcement, "While Secretary Jewell made it clear to the Governor she cannot obligate the federal government for reimbursement to the State, the agreement stipulates repayment will be possible with approval from the U.S. Congress. Consequently, the Governor has engaged Utah's congressional delegation to actively pursue timely repayment to state coffers."

The spending CR authorizes reimbursements to states for carrying out federal programs during the shutdown. That should apply to the five states that used their own money to pay NPS employees to keep the 12 units of the National Park System operating.

Separately, on October 11 eighteen House members introduced legislation to compensate the states. Said chief sponsor Rep. Steve Daines (R-Mont.),

"While I'm pleased that the Obama administration has finally relented and allowed individual states to get our National Parks open again, it's unacceptable that a state like Montana could be forced to bear even more of a financial burden because of Washington's failures."

Sen. Lamar Alexander (R-Tenn.) introduced a counterpart bill (S 1572) October 15.

Meanwhile, NPS Director Jon Jarvis, under assault from all sides, told concessioners October 11 the service would allow them to reopen their businesses on a case-by-case basis. The facilities must be near a public road, not need NPS support to operate and not need additional Park Service employees.

The National Parks Conservation Association (NPCA) said it welcomed the Interior Department decision to talk about state control. In a statement NPCA said Congress still needed to end the government shutdown and open the parks. "However, this makeshift approach is not a permanent solution. National parks are treasured by Americans nationwide; they not only protect our national heritage, but they are important to local economies, and Congress and the Administration have a responsibility to keep them open and adequately funded," NPCA said.

At the same time that Democrats blamed House Republicans for the closure of national parks due to the budget impasse, the Republicans faulted the Obama administration for overly zealous closures.

In one of the strongest statements Rep. Rob Bishop (R-Utah) attacked director Jarvis personally October 3 at a House subcommittee hearing on issues unrelated to the closure.

Bishop listed a number of closures he objected to. "The last one is a parking lot at Mount Vernon which is not federal property but has just been barricaded," he said. "If that is true somebody should call for this Park Service director's resignation because that is just blatant political spirit

and meanness." The Park Service removed the barricades when it was reminded Mount Vernon was on private property.

Bishop added at the hearing held by the subcommittee on Public Lands he chairs, "This is not an effort to help people out. I am disgusted with what the Park Service is doing."

But the Coalition of National Park Service Retirees (CNPSR) said NPS has a responsibility to protect the 401 closed units of the National Park System. CNPSR Chair Maureen Finnerty said: "The only thing that would be crazier than shutting down America's national parks would be for Congress to allow wide open access to the parks without NPS's dedicated and hardworking employees in place to protect the sites."

Finnerty, former superintendent of Everglades and Olympic National Parks, added, "By essentially enabling looting, poaching, and vandalism, Congress would be taking what is already a dark episode in the history of our national parks and making it worse, including the theft or destruction of national treasures of incalculable value."

The National Park Ranger Lodge of the Fraternal Order of Police, whose members were on the front line during closures, said, "Without any contrary court findings or changes in the law, we will carry on with this miserable, thankless, and payless task denying public access to parks during the government shutdown. Although our actions too often make sensational news stories and fodder for pundits - they are supported by precedent and legal guidance from government lawyers, under laws we are sworn to enforce."

The House Natural Resources Committee and the House Committee on Oversight ratcheted up the pressure on Jarvis October 16 when the panels held a joint hearing on the national park closures.

Said committee chairman Doc Hastings (R-Wash.) about the decision to allow states to pay for park operations, "Why now, after more than a week of refusing to allow States to

pay to keep National Parks open, is the Obama Administration suddenly reversing course? It appears they are truly just making this up as they go along, as they have put out one inconsistent policy after another."

The committee majority in a press release echoed Gov. Herbert's concerns about payback: "Questions still remain as to how and if this vaguely defined policy change will be implemented or if this is a step by the Administration to appear less strident and lenient in the face of sharp criticism."

The Republicans added, "For example, an Interior Department spokesman says they will only 'consider' agreements of Governors who indicate an interest and ability to 'fully fund' the National Park Service personnel. This raises questions about the parameters of the policy, whether agreements will actually be approved and how 'full funding' will be determined?"

Jarvis, wearing his green uniform, defended the Park Service's actions in restricting access to units of the National Park System on the National Mall in Washington, D.C., at the hearing. "Throughout the shutdown we have worked diligently to insure that no group of veterans or their facilities have been turned away from visitors to veterans' memorials," he said.

Ranking House Natural Resources Committee Democrat Peter DeFazio (D-Ore.) said the Park Service wouldn't be in this fix if Republicans had not shut down the government. "Republicans instigated a government shutdown and now the Republicans want to investigate why the national parks are shut down," he said. "Here we are holding a hearing on why the government shutdown let to the shutdown of our national parks. . . It is at best nonsensical."

The national parks were closed when the House and Senate failed to agree on an interim fiscal year 2014 appropriations bill when fiscal 2014 began October 1. Once the closure began the fate of the National Park System became a political football.

On October 2 the House approved by a 252-to-173 vote a Republican leadership proposal (HJ Res 70) to appropriate money only for the Park Service through December 15. But Senate Democratic leaders refused to bring the resolution to the floor because they objected to piecemeal approaches to governance.

That led to hard feelings in the Senate. For instance Sen. Mike Enzi (R-Wyo.), citing economic damage from the closure of Yellowstone National Park to surrounding communities, demanded that the Senate take up HJ Res 70. It would appropriate \$3 billion to keep the parks open throughout the fiscal year.

But Sen. Mazie Hirono (D-Hawaii), after describing the economic damage to her state from the closure of national parks, laid the blame on the House. "It is past time for the House to take the responsible action to pass the Senate bill to keep government running and services going," she said. "It is not fair to our veterans, our students and their facilities when they can't visit our Nation's historical and national treasures just because a small minority in Congress has chosen recklessness over responsibility."

In the end pollsters said the public overwhelmingly faulted House Republicans for the impasse and, thus indirectly, the closure of the parks. However, Republicans believe they are making political headway in blaming the Park Service for closing all parks and concessions.

For instance, Arizona Gov. Janice K. Brewer (R) and Arizona state legislature leaders wrote President Obama October 4 and volunteered to use state and private money to run the parks.

"Though not an ideal solution, state and private funds are available to be used for this purpose," the Arizonians wrote. "And it is legally possible as demonstrated in the past. In 1995 a combination of state and private dollars was used to reopen Grand Canyon National Park." Jewell agreed to that offer October 11.

The severe economic impacts of the shutdown of the National Park System have been well documented by CNPSR and NPCA: \$76 million in visitor spending per day, 715,000 missed visitors, \$30 million in lost revenues for communities, 21,000 Park Service employees furloughed and \$450,000 in foregone fee revenues per day for NPS.

Concessioners say they laid off 10,000 employees who would likely not be repaid when the government shutdown ended, said Derrick Crandall, counselor to the National Park Hospitality Association.

Crandall cited the instance of the closure of the Pisgah Inn along the Blue Ridge Parkway in North Carolina. Park rangers closed the inn and guarded it for 24 hours at a time to prevent a reopening, even though the 470-mile long parkway was open.

After the owner of the inn, Bruce O'Connell, filed suit in federal court the Park Service relented. Asked Crandall, "Do we need to go to federal court each time a concessioner is closed down?"

Crandall said the government closure and the Park Service decision to shutter all parks and concessions may damage severely the agency's image. "Our biggest fear is that it will seriously derail efforts to use the 2016 Centennial to renew a vibrant National Park System," he said. "We are at a crossroads."

In announcing the reopening of parks in the five states Jewell said, "This is a practical and temporary solution that will lessen the pain for some businesses and communities in South Dakota during this shutdown. We want to re-open all of our national parks as quickly possible for everyone to enjoy and call on Congress to pass a clean continuing resolution to open the government."

Here are the national parks the states paid for and the amounts of money the states committed to pay for up to 10 days:

Arizona: Grand Canyon National Park, \$651,000.

Colorado: Rocky Mountain National Park, \$362,700.

New York: Statue of Liberty National Monument, \$369,300.

South Dakota: Mount Rushmore National Memorial, \$152,000.

Utah: Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capitol Reef National Park, Cedar Breaks National Monument, Glen Canyon National Recreation Area, Natural Bridges National Monument and Zion National Park, \$1,665,720.80.

GOP also displeased with FWS and FS facility closures

While Obama administration critics focused most of their early ire on the closure of the national parks in the wake of the government shutdown October 1, last week they turned their attention to wildlife refuges and national forests.

Alaska Gov. Sean Parnell (R) led the way by objecting to the closure of backcountry Fish and Wildlife Service lands in Alaska. He said BLM and Park Service backcountry is available to the public and refuges should be too.

"Whether it's for hunting, fishing, or subsistence, Alaskans' access opportunities cannot lawfully be curtailed due to a federal government shutdown," he said. "We will fight to ensure our people have rightful access to federal lands during the shutdown." Parnell called Secretary of Interior Sally Jewell with his complaints.

Alaska Sen. Lisa Murkowski (R) and Rep. Don Young (R) chipped in with a demand that hunting and fishing guides and air taxi operators be granted access to the refuges.

Murkowski and Young wrote Fish and Wildlife Service (FWS) Director Dan Ashe October 9 and said Ashe broke the law by denying access. "By

suspending air taxi permits, the USFWS has effectively disallowed basic access rights legally granted through Section 1110(a) of the Alaska National Interest Lands Conservation Act. Under that law, Alaska's Refuges are mandatorily open to hunting and access is guaranteed," they wrote.

They added that the National Wildlife Refuge Improvement Act assumes that hunting will be a priority use. "While the agency may not have funds to actively facilitate hunting during the shutdown, there is no question that any closure edict runs contrary to the letter and spirit of this law, as well," Young and Murkowski told Ashe.

They concluded with a plea for a quick reopening of the refuges. "We urge you to immediately revoke your agency's current order and closures and to fully afford Alaskans the rights granted to them under federal law," they wrote.

The 16 national wildlife refuges in Alaska extend over 76.8 million acres. October is prime hunting season in many of the refuges. Alaska's Democratic Sen. Mark Begich did not sign the letter.

The disputes over what refuges and which Forest Service facilities should be opened and which should be closed were rendered moot of course by the passage October 16 of an interim spending bill. All units are theoretically back in business now.

House Natural Resources Chairman Doc Hastings (R-Wash.) picked up the cudgel against FWS October 11. He complained in a letter to FWS Director Ashe about refuge closures nationally, not just in Alaska, and to Forest Service Chief Tom Tidwell about the campground closures.

Hastings summed up, "Just as we have seen in the National Parks across the county, the Obama Administration is arbitrarily and inconsistently barricading open spaces, restricting access to privately operated facilities within the forests, and wildlife refuges, and hurting small businesses

that do not rely on federal funds to operate."

"Again, many of these places were not barricaded during the last government shutdown 17 years ago. The Obama Administration is taking advantage of every opportunity to make this shutdown as painful as possible," he added.

In a letter to Ashe Hastings said, "It is especially troubling that the Department of the Interior has been restricting access to public lands inconsistently, closing certain high-profile areas including Refuges across the country while allowing others lands to remain open and accessible."

FWS had denied access to holders of special use permits to refuges as soon as the government shutdown began October 1.

Hastings complained to Tidwell that concessioner-run campgrounds have been closed that were not closed in previous government shutdowns.

"According to recent media reports, a Forest Service spokesman has advised campground operators that these facilities must be shut down due to the lapse in appropriations, and that this action is being undertaken to be consistent with closings that have been implemented by the National Park Service," he wrote.

"Most disturbingly, many of these concessionaires have stated that their facilities were not ordered closed during previous government shutdowns and were initially told they could remain open," Hastings added.

In a related development conservationists October 12 praised FWS for opening two million acres of waterfowl production areas in the northern plains to bird hunters. The opened lands are in Minnesota, Montana and the Dakotas, said the Theodore Roosevelt Conservation Partnership (TRCP).

"As hunting seasons open - in the Great Plains and across the country -

sportsmen's calls have been heard, and the administration has acknowledged the economic impact of hunters and anglers," said TRCP President Whit Fosburgh.

House and Senate agree to go to conference on Farm Bill

When the old Farm Bill expired October 1, the House and Senate finally took steps to go to conference to produce a new law, one presumably with major conservation provisions.

The House acted most recently October 11 in voting to send 12 Republicans and nine Democrats to a conference with seven Democratic senators and five Republican senators.

The conferees are tasked with quickly resolving massive differences between a House-passed, three-year bill (HR 2642) and a Senate-passed, five-year bill (S 964). The Senate approved its measure in June and the House in July. However, the two sides have been unable to even come close to an agreement on a new Farm Bill over the last two years.

In total the Senate bill would trim \$3.5 billion from projected spending for conservation programs, according to the Congressional Budget Office (CBO). The House committee bill would reduce conservation spending by \$4.8 billion, said CBO.

In the run up to a conference the House Democrats October 12 asked their Republican colleagues to reject a strategy of separating food assistance programs from traditional farm programs into two bills - HR 2462 for the farm programs and HR 1947 for the food assistance programs. But the House rejected the amendment by a vote of 195-to-204.

Rep. Collin Peterson (D-Minn.) said both the American Farm Bureau Federation and the National Farmers Union, two of the biggest hitters in farm policy, support a one-bill strategy. "The Farm Bureau joined a broad coalition of 522 agriculture, conservation, rural development, finance, forestry, energy and crop insurance

groups that expressed their opposition to splitting the nutrition title from the farm bill and urged House leaders to pass a five-year farm bill," said Peterson.

If the House and Senate can't pass a stand-alone bill Senate Majority Leader Harry Reid (D-Nev.) last week suggested incorporating a measure in a grand budget agreement. Such an agreement is a long shot at best but Reid said the Farm Bill might be thrown in with tax reform, a budget deal and other federal policies.

Overall the Senate bill follows the pattern of other Farm Bill legislation over the last two years, i.e. it would reduce funding across-the-board, would reduce funding for conservation programs specifically and would consolidate programs. The House bill follows suit in reducing spending, but with even larger cuts than the Senate.

Included in both the Senate-passed and House committee-passed bills are provisions to keep alive the Conservation Reserve Program, a consolidated conservation easement program, an Open Fields program and the new loan/conservation policy.

In addition the Senate bill includes a new provision that would require farmers to remove fragile lands from cultivation as part of a crop insurance program. The crop insurance would largely replace direct payments now made to farmers.

In total the House would reduce farm spending by \$40 billion over the next 10 years, or \$17 billion more than the \$23 billion the Senate would cut. The Obama administration has endorsed the Senate bill.

The Senate generosity applies to conservation programs, including a Conservation Reserve Program and an Open Fields program. The Senate committee would reduce the Conservation Reserve Program from the existing 32 million acres to 25 million acres, but that is more than the 24 million acres in the House draft.

And both bills would retain an Open Fields program with the Senate providing \$40 million over five years and the House \$30 million. The program is formally known as the Voluntary Public Access and Habitat Incentive Program. The money would be used to continue an existing program that has passed \$50 million in grants through states to encourage private landowners to welcome outdoor recreationists on their lands.

Sportsmen applaud EPA wetlands permitting science

A coalition of conservationists - including hunters and fishermen - teamed up October 10 to argue that new EPA science should lead to tighter regulation of most wetlands and streams by the federal government.

That is, the sportsmen and conservationists said at a press briefing that an EPA report may form the basis for a new EPA rule to extend Section 404 water disturbance permitting authority to remote wetlands and streams.

"The report is a very good synthesis of the science that riparian and floodplain wetlands are, as a category, physically, chemically and biologically connected with rivers," said Scott Yaich, director of conservation programs with Ducks Unlimited.

Under recent Supreme Court decisions and federal rules only navigable waters are subject to Section 404 permitting. Conservationists would like to extend permitting to streams and other smaller water bodies.

There is strong pushback from Republicans, some Democrats, businesses and their allies. They support legislation (S 1006) from Sen. John Barrasso (R-Wyo.) that would forbid EPA from issuing a new rule and disturbing the status quo. Barrasso has 27 cosponsors.

The private property advocacy group the American Land Rights Association (ALRA) October 11 posted a bulletin to its members warning them of

the upcoming EPA regs and asking them to support the Barrasso bill.

ALRA quoted Reed Hopper of Pacific Legal Foundation, "If the new proposed jurisdictional rule follows suit (to the report), it will be the largest power grab in the history of the country. Although the new proposed jurisdictional rule can and will be challenged, the courts are required to give great deference to agency rulemaking."

In the same vein House appropriators over the last two Congresses have frequently inserted a rider in spending bills that would block implementation of a proposed administration wetlands policy, as S 1006 would. Most recently the House subcommittee on Interior appropriations July 23 approved such a provision.

EPA took two significant steps September 17 toward an expansive new definition of water bodies that are subject to Section 404 permitting under the Clean Water Act. The actions are designed to clarify what non-navigable water bodies must be covered by the permits.

The U.S. Supreme Court posted two decisions that the Bush administration used to limit permitting to navigable water.

One EPA action consists of a draft report that uses scientific literature to identify connectivity of water bodies. The other action is to submit to the Office of Management and Budget a proposed rule based on the report.

The draft report digs into the details. It makes three conclusions. First, "Streams, regardless of their size or how frequently they flow, are connected to and have important effects on downstream waters."

Second, "Wetlands and open-waters in floodplains of streams and rivers and in riparian areas (transition areas between terrestrial and aquatic ecosystems) are integrated with streams and rivers." And third, "there is insufficient information to generalize about wetlands and open-waters located

outside of riparian areas and floodplains and their connectivity to downstream waters."

Again, EPA is expected to use those conclusions to prepare a regulation to expand somewhat the definition of a navigable water. "This draft rule takes into consideration the current state-of-the-art peer reviewed science reflected in the draft science report," says EPA.

In announcing the draft report and draft regulation EPA did not mention a more substantive draft guidance it submitted to OMB in February 2011 that would have significantly expanded the definition of a navigable water. EPA did, however, say that current agricultural exemptions set by the Bush administration would not be changed by the proposed rule.

Helen Neville, a research scientist with Trout Unlimited, argued at the conservationists' press conference for the inclusion of non-navigable streams under the Section 404 rubric. "We must consider collectively the impact of these streams. The influence of each individual lake, stream or draw in aggregate has an enormous effect on downstream waters and ecosystems and is, in many ways, what drives the entire system," she said.

In addition to Trout Unlimited and Ducks Unlimited representatives, Joy Zedler, a University of Wisconsin professor, participated in the press conference.

The EPA materials are available at: <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=238345>.

GOP working on water rights policy; Dem says slow down

House Republicans are giving prompt attention to legislation (HR 3189) that would forbid federal agencies from inserting provisions in ski resort permits that lay claim to water rights on behalf of the federal government.

However, the attention may be too

prompt for some Democrats.

On October 10 the House subcommittee on Water and Power held a hearing on the measure to the applause of subcommittee chairman Tom McClintock (R-Calif.) and lead bill sponsor Rep. Scott Tipton (R-Colo.)

Said McClintock, "In 2011, the Forest Service issued a directive that would effectively take these private property rights without compensation, in violation of state law, while subsidizing these enterprises altogether and all the direct employment, spin-off, economic activity, and tax revenues they provide."

The substance of the bill is brief - only two paragraphs. It forbids the Forest Service or the Interior Department from conditioning any permit or other contract "on the transfer or relinquishment of any water rights" to the United States.

But ranking subcommittee Democrat Grace Napolitano (D-Calif.) said the Forest Service should provide input before the subcommittee marks up the bill.

"We did not receive agency testimony because of the shutdown," she said. "We do not have all the answers to the questions we have asked of the administration, again, because of the shutdown. Yet, this hearing is moving forward and it will be the only public opportunity for stakeholders to weigh in before mark up. We are missing key information without the administration's positions on these bills."

Napolitano questioned the broad sweep of the bill: It addresses all water rights holders not just ski resorts. "The Forest Service is concerned about their ability to manage the land if the ski resorts were to sell their rights," she said. "The legislation is so broadly written that it could apply to many actions on federal lands, not just to ski resorts."

Although Napolitano raised questions about expedited treatment for the legislation, one Democrat is among

the seven sponsors of HR 3189, Rep. Jared Polis (D-Colo.)

Prompting the legislation in part was an attempt by the Forest Service three years ago to obtain water rights held by ski resorts operating on national forest land. That's most of the big ones. Commodity users of the public lands fear the Forest Service policy could affect their water rights.

A federal court entered the act on Dec. 19, 2012, when it threw out the Forest Service water rights policy on procedural grounds. Judge William J. Martinez in U.S. District Court in Colorado said the service failed to give notice and take comments before inserting the policy in ski resort permits.

And the use of permits and other agreements is what Tipton and friends are worried about. They said the Forest Service would obtain water rights "by prohibiting federal agencies from confiscating water rights through the use of permits, leases, and other land management arrangements."

The livestock industry supports the legislation. "With 40 percent of the western cow herd spending some time on public lands, the ability to have secure water rights is imperative, not only to producers but to the economy," said National Cattlemen's Beef Association President Scott George, a rancher and dairy producer from Cody, Wyo. "This legislation is a commonsense bill that provides certainty to ranchers and leaves water management to the states where it belongs."

Forest Service officials were furloughed this week because of the federal government shutdown and were not available to comment.

The Forest Service crafted the new policy known as X-99 in 2011 and 2012 ostensibly to clarify the rights of the federal government to water vis-à-vis ski resorts on federal lands.

But the National Ski Areas Association (NSAA), which represents 121 ski areas from New Hampshire to

California, said the policy could prevent the resorts from selling water rights they paid good money for to outside interests, other than to a successor permit holder. NSAA also said the precedent set by the policy could affect other water rights holders.

GOP asks Rim Fire timber cuts in Yosemite and Stanislaus

In two steps western House Republicans are moving to authorize major timber salvage sales in the portions of Yosemite National Park and Stanislaus National Forest that burned in the September Rim Fire.

In step one the House approved legislation (HR 1526) September 20 that would authorize salvage sales without environmental review on any federal lands burned in 2013. By definition that includes the Rim Fire.

In step two the author of that provision, Rep. Tom McClintock (R-Calif.), introduced a stand-alone bill (HR 3188) September 26 that would authorize Rim Fire timber salvage sales without further environmental review in Yosemite National Park and Stanislaus National Forest. Both bills would also forbid litigation. The House subcommittee on Public Lands held a hearing on HR 3188 October 3.

Democrats are resisting the measures, including Democrats who are friends of the timber industry. They say McClintock's legislation is too sweeping and recommended as a first step the creation of strike teams to identify priority cuts.

Said Rep. Peter DeFazio (D-Ore.), ranking minority member on the House Natural Resources Committee, on the House floor September 19, "I suggested a number of years ago, the last time we had a salvage rider, that a great alternative would be to have the Forest Service establish a strike team to go out to major fires - in fact, while they're probably still burning - and begin to map out a recovery effort - where it might be appropriate to go in and do some salvage, where there are

critical watersheds at risk and there's going to have to be some immediate mitigation with the planting of grass or other efforts to mitigate problems that will come with the rainy season in a few months in California."

But McClintock said, "If any good can come of this tragedy, it would be the timely salvage of fire-killed timber that could provide employment to local mills and desperately needed economic activity to mountain communities. But this can't happen if salvage is indefinitely delayed by bureaucratic processes or the usual litigation filed by extremist environmental groups."

At the October 3 House Public Lands subcommittee hearing DeFazio, an advocate for his state's timber industry, was somewhat conciliatory, despite his earlier objections. "I am hopeful that when we get the shutdown behind us we can get an orderly plan and get an emergency appropriation," he said.

The Obama administration did not testify because of the government shutdown, but subcommittee chairman Rep. Rob Bishop (R-Utah) said the Forest Service would comment before the subcommittee marked up the bill.

In the meantime DeFazio said he had talked to Forest Service Chief Tom Tidwell about the agency's approach to the Rim Fire restoration. "The chief wants to go in and do a through survey of the damage, plot the whole mosaic of the burn and review plans as to where and when (the Forest Service) should enter those forests and do salvage," DeFazio said.

But DeFazio said that work has been brought to a halt by the government closure, other than emergency restoration efforts.

The Rim Fire burned more than 260,000 acres of backcountry, including more than 40,000 acres of Yosemite National Park. Yosemite park officials were able to keep open the main tourist areas of the 750,000-acre park.

The Wilderness Society told

the subcommittee it will oppose the legislation. "H.R. 3188 attempts to override all existing laws and to prohibit administrative and judicial review for purposes of salvage logging operations in the Rim Fire area," Alan Rowsome, senior director for government affairs for the society, said in a letter to the subcommittee. "This would eliminate all accountability to the public, the courts, or an entire slate of laws designed to ensure responsible management of public

Notes

Acadia concessions to move?

The Park Service has selected a New Mexico firm to replace the local Maine business that has provided concessions services to Acadia National Park for 80 years. The local company is not pleased. According to the *Bangor Daily News* NPS selected the Ortega National Parks LLC, based in Santa Fe, N.M., to replace Acadia Corp. The incumbent company employs as many as 200 people during the peak summer season in gift shops and restaurants. The MoveOn.org group mounted a protest campaign on behalf of Acadia Corp., and the Bangor newspaper said MoveOn.org claimed it had rounded up more than 4,500 signatures to a petition. Ortega said it would offer employment to the Acadia Corp.'s employees. The contract would be good for 10 years. NPS must wait for 60 days to allow Congress to review the new contract before executing it. Acadia Corp. President David Woodside told the paper he is in contact with the Congressional delegation and the delegation is reportedly attempting to change NPS's mind.

C&O whistleblower case over.

The Park Service reached an agreement October 4 with former C&O Canal National Historical Park Chief Ranger Robert Danno that settled an eight-year fight over the cutting of trees in the park by Washington Redskins owner Dan Snyder. After Danno objected to the cutting of 130 mature trees in the park, he said NPS removed him from his position, brought a lawsuit against him for theft (he was acquitted) and threatened him with termination. Neither Danno nor the Park Service would comment on the

settlement. Danno, 54, will assume a position as division chief for wilderness planning for the Park Service in Missoula, Mont.

Connor nomination moves up. The Senate Energy Committee October 8 approved the nomination of Bureau of Reclamation Commissioner Michael L. Connor to the number two post at the Interior Department - deputy secretary. Connor has headed the bureau since 2009. Before that he served as counsel to the Senate Energy Committee. As deputy secretary of Interior Connor would function as the chief operating officer. The committee approved the nomination by voice vote without opposition. No word on when the Senate will take up the nomination.

Ted Turner the easement king. The Nature Conservancy honored businessman and philanthropist Ted Turner October 9 for placing more lands in conservation easements in his lifetime than any other individual. Turner has designated 150,000 acres of his property as easements from Georgia to Montana. Turner established a Turner Foundation in 1990 dedicated to protecting natural systems. Said Nature Conservancy President Mark Tercek at a Volunteer Leadership Summit in Washington, D.C., "No single private landowner has ever done so much to conserve this country's vital natural areas as Ted." For his part Turner said, "How we treat the Earth is the biggest expression of our success or failure as a society. I love this world. I want to see humanity succeed, and learn to live in peace and harmony with the environment and each other."

Conference calendar

OCTOBER

30-Nov. 2. The **National Trust for Historic Preservation** annual conference in Indianapolis, Ind. Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, DC 20036. (202) 588-6100. <http://www.nationaltrust.org>.

NOVEMBER

2-7. **National Scenic & Historic Trails Conference in Tucson, Ariz.** Contact:

Partnership for the National Trails System at www.pnts.org.

4-6. **National Forest Recreation**

Association 65th annual conference and trade show in Reno, Nevada. Contact the website nfra.org or the NFRA Office at: 559-564-2365.

12-16. **National League of Cities**

Annual Congress of Cities in Seattle. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. <http://www.nlc.org>.

DECEMBER

10-12. **America Outdoors Marketing and Management Conference** in

Albuquerque, N.M. Contact: <http://www.americaoutdoors.org/>.

11-12. **Western Governors' Association**

winter meeting in Las Vegas with Secretaries Jewell and Vilsack. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202. (303) 623-9378. <http://www.westgov.org>.

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JANUARY

2-5. **Archaeological Institute of**

America annual meeting in Chicago. Contact: Archaeological Institute of America, 656 Beacon St., Boston, MA 02215-2006. (617) 353-9361. <http://www.archaeological.org>.

21-23. **National Ski Areas Association**

Western Winter Conference in Steamboat, Colorado. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

22-24. **U.S. Conference of Mayors Winter**

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

22-25. **Outdoor Retailer Winter Market**

in Salt Lake City. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.