

Federal Parks & Recreation

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Thousands of fed rec areas closed by budget gridlock

As advertised the October 1 federal government closure shut down thousands of national park and recreation sites around the country.

But the closures are also having a significant immediate impact on the businesses in communities that support outdoor facilities.

For example Acadia National Park in Maine was shuttered just as the fall leaf season began, dealing a blow to the town of Bar Harbor.

Said Chris Fogg, executive director of the Bar Harbor Chamber of Commerce, "Acadia National Park is an economic driver for our community and we could see a potential loss of \$684,000 per day. The beautiful fall foliage in October attracts nearly 10,000 visitors daily and the loss could be shattering to our community."

In a press release put out by the National Parks Conservation Association Fogg added, "Because of the sequester and the late opening of Acadia's roads, business was already down about 30 percent in April and May of this year in comparison to the average of the previous five years. We just can't believe that Congress is letting this happen."

To sum up all 401 units of the National Park System closed October 1 at an estimated cost to communities of \$30 million per day in economic activity. NPS said all visitors were to be out of campgrounds and lodges by 3 p.m. yesterday (October 4).

The Bureau of Land Management (BLM) said, "Approximately 4,000 recreation facilities, including visitor

centers, campgrounds, boat ramps and other recreation sites will be closed." BLM said 10,200 of its 10,800 employees are being laid off.

The Forest Service closed all recreation areas as well as field offices. But some of the backcountry remains open. "General areas of the National Forest where you may drive, hike, hunt and fish remain accessible," said the Bridger-Teton National Forest in Wyoming. Forest Service headquarters said it would take a week to close down completely.

The impact is being felt not only by federal employees but also by nonprofit groups and their employees. Dan Puskar, executive director of the Association of Partners for Public Lands, said October 1, "This morning, over 1,050 employees from the Association of Partners for Public Lands' member organizations - all not-for-profit businesses dedicated to supporting America's public lands and educating new generations of their stewards - will be unable to report to their jobs."

The National Parks Hospitality Association said that its concessioners will also struggle. The association used the Xanterra company as an example. "Xanterra estimates that it is losing around one million dollars a day in revenue across its park operations in Crater Lake, Death Valley, Grand Canyon, Mount Rushmore, Yellowstone, Rocky Mountain, Zion," said the association. "And although income has stopped, operating costs continue. Xanterra has approximately 3,350 employees working in the parks right now, and virtually all face furloughs or lay-offs."

All land management agencies are keeping on hand a minimum force for law enforcement, medical care, border protection, etc.

The political situation is familiar. The House approved an interim fiscal year 2014 spending bill (HJ Res 59) several times in the last week that would halt 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.

Both bills would extend spending based on fiscal year 2013 levels, including major deductions for a sequestration law.

House Natural Resources Committee Republicans challenged a Park Service decision to close open-air units of the park system in Washington, D.C., such as the World War II Memorial.

Committee Chairman Doc Hastings (R-Wash.) and subcommittee on Public Lands Chair Rob Bishop (R-Utah) wrote NPS Director Jon Jarvis October 2, "The Park Service's earlier statements that such closures were necessary to protect the monuments and memorials and were required by law seem especially dubious given these reports and the Park Service's failure to take similar steps previously or at less visible Park Service sites in the capital are."

"For example, the Park Service did not close the Lincoln Memorial during the lapse in appropriations in 1996 and, in 2011, protestors were allowed to take over and occupy Park Service sites in the District of Columbia, some of which were damaged at considerable taxpayer cost," they added.

From the Democratic side Public Lands subcommittee ranking Democrat Raúl Grijalva (Ariz.) asked the Interior Department to remove commodity developers from the public lands as long as recreation visitors are banned.

Grijalva wrote Secretary of Interior Sally Jewell October 3, "This disparity greatly disturbs me, as does the ongoing environmental risk to sensitive outdoor areas. I urgently request the immediate cessation of mining, drilling and other extractive activities on our federal public lands until we end the shutdown and cease the lockout of federal employees and visitors."

Meanwhile park advocates October 2 put pressure on Congressional leaders to end the budget impasse and reopen the parks. "The shutdown needs to be ended swiftly and a lesson learned," they wrote Republican and Democratic leaders. "Please find a way to resolve issues on budgets and other national issues without imposing unjustified, unnecessary pain on the rest of the nation. We ask your help in making certain that the pain resulting from closures of and budget cuts for our parks and other public lands ends quickly."

Signing the letter were the National Parks Conservation Association, the National Park Hospitality Association and the Association of Partners for Public Lands, among other organizations.

NPS-only appropriations? The House October rejected a Republican leadership proposal (HJ Res 70) to appropriate money only for the Park Service through December 15. But the resolution failed on a 252-to-176 vote (a two-thirds margin needed to pass) when Democrats opposed it as a piecemeal approach to governance.

Resolution sponsor Rep. Mike Simpson (R-Idaho) argued for the appropriation, using the example of the National Mall in Washington, D.C. "It is estimated that the local economy could lose up to \$200 million a day with the National Zoo, the Smithsonian museums, the Holocaust Museum, the National Gallery of Art, and other popular attractions closed to the public," said Simpson, who chairs the House Appropriations subcommittee on Interior and Related Agencies. "This doesn't even begin to measure the national and international impact of these closures."

But the ranking minority member of Simpson's subcommittee, Rep. Jim Moran (D-Va.), called the resolution, which would fund the parks at fiscal 2013 levels through December 15, a gimmick. "I have to rise to oppose this legislation because it is not the way to do business," he said. "By that I mean, the idea of shutting down the whole government, and then when we get an

adverse reaction from our constituents, we pick and choose and we open up a few."

As to the larger appropriations battle, Senate Appropriations Committee Chair Barbara Mikulski (D-Md.) may be whistling in the dark but she said she was willing to negotiate on the overall cap. "Let's negotiate on a middle ground number," she said September 30 just before the shutdown. She has repeated the offer since. "The House has a budget of \$967 billion, and they accept sequester as the new normal. Let's find a way to cancel sequester, at least for two years. I marked up the appropriation bills at \$1.058 trillion that's the number that the Senate Budget Committee passed in April. There is a \$91 billion difference. I'm ready to negotiate, but we can't capitulate. Let's find a middle ground."

In addition to freezing access to federal park and rec areas, the dispute also hangs up \$636 million in fire-fighting money that the House and Senate both approved in their CRs.

The provisions both would appropriate \$636 million for wildfire suppression - \$600 million for the Forest Service and \$36 million for the Interior Department.

In another twist the House CR includes a provision that would close down an Eisenhower Memorial Commission. Some, but not all, House Republicans disapprove of the proposed design of the memorial prepared by architect Frank Gehry.

The Senate CR also differs from the House version by extending fiscal 2013 money only through November 15. The House would provide money through December 15. Sen. Mikulski said Democrats don't want to get involved in a Christmas Eve confrontation.

Just before the shutdown began, Joan Anzelmo, a former NPS park superintendent and spokesperson for Coalition of National Park Service Retirees, said: "The term 'non-essential' has been connected to National Park Service employees in

many national news stories lately in the run-up to the government shutdown. Therefore, we want to take this opportunity to remind every American that if the potential shutdown occurs, it will require furloughing people who fight explosive wildfires, save lives in outdoor accidents, rescue injured climbers on mountain peaks, search for lost children, respond to terrorist threats, protect U.S. borders, and rush into places devastated by hurricanes, tornadoes, earthquakes, fires and floods to help their fellow man. NPS does this vital work and so much more day in and day out, year-round."

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 so controversial because of a dearth of money 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 numbers: Here are some of the proposals in the two bills compared to fiscal 2013, but not counting 5.5 percent across-the-board sequestrations in fiscal 2013.

LWCF FEDERAL: Senate draft, \$225 million; House subcommittee, zero; fiscal 2013, \$186 million.

LWCF STATE: Senate draft, \$45 million; House subcommittee, zero; fiscal 2013, \$45 million.

STATE WILDLIFE GRANTS: Senate draft, \$61.2 million; House subcommittee, zero; fiscal 2013, \$61.2 million.

URBAN PARKS AND RECREATION RECOVERY: Senate draft, \$10 million; House subcommittee, zero; fiscal 2013, zero.

FOREST LEGACY: Senate draft, \$60

million; House subcommittee, zero; fiscal 2013, \$53 million.

NPS OPERATIONS: Senate draft, \$2.279 billion; House subcommittee, \$2.121 billion; fiscal 2013, \$2.214 billion.

HISTORIC PRESERVATION: Senate draft, \$65.9 million; House subcommittee, \$45.3 million; fiscal 2013, \$56 million.

NPS CONSTRUCTION: Senate draft, \$145 million; House subcommittee, \$106 million; fiscal 2013, \$131 million.

NPS REC AND PRES: Senate draft, \$64.3 million; House subcommittee, \$48.5 million; fiscal 2013, \$60 million.

NPS HERITAGE AREAS: Senate draft, \$21.2 million; House subcommittee, \$8 million; fiscal 2013, \$9 million. In addition the Senate draft would extend for one year the authorization for 12 national heritage areas. The House subcommittee would not.

FOREST SERVICE RECREATION: Senate draft, \$261 million; House subcommittee, \$262 million; fiscal 2013, \$276 million.

FOREST TRAILS: Senate draft, \$81.4 million; House subcommittee, \$82.5 million; fiscal 2013, \$78.1 million.

BLM RECREATION: Senate draft, \$51.8 million. Fiscal 2013, \$48.6 million. House not broken out.

WILDLIFE REFUGE SYSTEM: Senate draft, \$484 million; fiscal 2013 \$478 million. House not broken out.

The riders: While the House subcommittee was more active in the way of riders, it may not matter much because the Interior spending bill will likely be wrapped into a bare-boned continuing resolution, sans most riders. But here is a list of the provisions of the House subcommittee and Senate draft bills that dip into policy arenas.

* *STATUE OF LIBERTY ACCESS:* House and Senate. Both the House subcommittee and the Senate draft bill would authorize NPS to acquire lands in New

York and New Jersey to use for providing transportation to the Ellis, Governors and Liberty Islands in New York Harbor.

* FEDERAL LANDS RECREATION ENHANCEMENTS ACT (FLREA): House only. The subcommittee would extend the existing recreation fee law one year through Dec. 8, 2015. That presumably would give authorizing committees time to replace or extend FLREA for years.

* NPS HERITAGE AREAS: The Senate draft would extend for one year the authorization for 12 national heritage areas. The House subcommittee would not. A draft House committee report said the subcommittee "has not included requested language to extend the 12 expiring areas' authority by one more year." On the money side the Senate draft would appropriate \$21.2 million for national heritage areas and the House subcommittee \$8 million.

* TRAVEL MANAGEMENT PLANS: House only. The House subcommittee would have national forests rewrite travel management plans "where communities are dissatisfied" with existing plans. The Senate draft does not address the issue.

* EISENHOWER COMMISSION: House only. The House subcommittee bill would provide no money for the Dwight D. Eisenhower Memorial Commission. The Senate would appropriate \$2 million, compared to a fiscal 2013 appropriation of \$1 million.

* OCEANS: House only. The subcommittee would block implementation of a National Oceans Policy proposed by the Obama administration. House Republicans argue the administration policy would lead to zoning of the ocean and a decrease in recreational fishing opportunities.

* WETLANDS: House only. The Interior bill is but one of many pieces of legislation that House Republicans are trying to use to block implementation of a proposed administration wetlands policy. Republicans argue that the policy would require a permit for nonnavigable waters, in violation of Supreme Court decisions.

* HUNTING: House only. The bill would declare public lands open to hunting unless specifically closed. This proposal enjoys some Democratic support and is being proposed by House and Senate Republicans and Democrats in several other authorization bills.

* SNOWMOBILES: House only. The bill would authorize the Forest Service to write new oversnow vehicle regulations.

Congress approves extra \$50M for NPS maintenance

President Obama signed into law October 2 legislation (HR 527) that authorizes a one-time, \$50 million allocation to attack a Park Service maintenance backlog.

The provision would require a non-federal match, bringing the total program firepower to more than \$100 million at a time when Congress is cutting back substantially on domestic spending.

The underlying bill keeps the nation's crucial helium supply viable beyond October 1.

Said Senate Energy Committee Chairman Ron Wyden (D-Ore.), "The bill before the Senate also includes a public-private program to help address the needs of one of our national treasures - America's national parks. The bill creates a matching fund to leverage a \$50 million federal investment that must be matched dollar-for-dollar with non-Federal funding. . . The legislation that the Senate passed today makes a down payment toward reducing (an \$11 billion maintenance backlog) and does it in a way that brings private resources to the table."

The National Parks Conservation Association (NPCA) was pleased. "This is a small but very important step in the right direction to more properly fund our national parks, particularly in light of recent and continuing cuts, including the sequester, said NPCA Senior Vice President of Government Affairs Craig Obey.

Perhaps mindful of the numerous efforts in and out of Congress to raise money for the Park Service's upcoming Centennial in 2016, Obey added, "NPCA hopes this investment will mark the beginning of a more substantial effort to restore the funding needed to protect America's most treasured places for present and future generations to enjoy."

The \$50 million bonus from Congress surfaces just as the Park Service, park advocates and Congress are searching for sources of money outside appropriations to upgrade the park system in anticipation of its Centennial in 2016. And in the face of Congressional spending retrenchment.

(See previous article on the government closure.)

The National Park Foundation, the National Parks Conservation Association and the National Park Hospitality Association have come up with more than a dozen recommendations.

The recommendations were presented March 19 to a stellar group of past and present Congressmen, cabinet members and other VIPs of the park and rec world at a meeting hosted by the Bipartisan Policy Center.

At the meeting two sources of revenue appeared to draw the most interest - diversion of a portion of oil and gas royalties to a new NPS fund of about \$350 million per year and a penny per gallon gasoline tax of about \$1.5 billion per year. (The gas tax would be used for all federal land management agency roads, not just park roads.)

In a second, less-formalized initiative leading senators from both parties in early June backed public-private partnerships as a means of providing significant new revenues for the system. Those senators include Wyden, John Portman (R-Ohio) and Mark Udall (D-Colo.) They said they are trying to line up support for legislation to establish an endowment with matched dollar-for-dollar public-private contributions to the parks. Past such proposals recommended as much as \$1 billion per year.

The \$50 million provision was inserted in HR 527 by the Senate under Wyden's lead. HR 527's main purpose is to keep alive a helium program managed by the Bureau of Land Management (BLM) in Texas. The Federal Helium Reserve provides 40 percent of the nation's supply of the gas that is used to make computer chips, optical fibers and medical equipment.

The Park Service maintenance amendment faced an uncertain future because the House had originally approved a stripped-down version of HR 527. But on September 25 the House accepted almost the entire Senate version of the bill and on September 26 the Senate gave the measure final approval.

The Park Service provision is simple. It would set aside without further appropriation \$50 million over the fiscal 2014-2018 period for Park Service maintenance. The provision would require a non-federal match, bringing the total program to more than \$100 million.

Recreation pros put together test LWCF renewal plan

As expected, the Society of Outdoor Recreation Professionals (SORP) recommended a 50-year extension of the Land and Water Conservation Fund last week in a draft report submitted to Secretary of Interior Sally Jewell.

And as expected the society - made up of state, local and federal recreation professionals - suggested a guaranteed allocation for the fund each year of \$900 million.

However, the guaranteed allocation is not set in stone, said SORP President Sergio Capozzi, because the draft is still a working document. "The initial idea was to provide a starting point," he said. "Our ideas are subject to revision. But our hope is the money would be provided outside the appropriations process."

Capozzi said that, given the current economic climate, Congress may

not take to the idea of guaranteeing \$900 million per year for one program.

Less expected in the proposal were recommendations about how to divide up the \$900 million. Under existing law the fund authorizes up to \$450 million each year for federal land acquisition and \$450 for state recreation grants.

The report, which includes a draft bill, would put the money into seven discrete pots, with a total of \$320 million federal, \$400 million state and \$180 million joint federal-state projects.

SORP wrote the draft bill as a guide for the administration as the LWCF law is set to expire on Sept. 3, 2015, on its 50th anniversary. Discussion copies were also sent to the heads of the Park Service, Forest Service (FS), Bureau of Land Management (BLM), and the Fish and Wildlife Service (FWS). "We're hoping to get a response from Interior," said Capozzi, who works for Kekekabic Consulting in New Jersey.

The political outlook for the legislation is uncertain. Democrats largely support the program and are already proposing legislation to extend it, with some Republican support in the Senate. But to western Republicans the program is anathema and a House appropriations subcommittee on Interior has recommended no money for the program in fiscal year 2014.

With Republicans solidly entrenched in the House any ambitious LWCF bill will probably not stand much of a chance in 2014. As for 2015 that all depends on the 2014 elections, a long time off.

At least the SORP initiative is on the table. It is one part of a national campaign to revive the venerable LWCF program. Leading the charge is the Obama administration's fiscal year 2014 budget request. It makes a strong pitch for full, guaranteed funding for LWCF at \$900 million per year, beginning in fiscal 2015.

On the Hill 34 senators introduced the legislation (S 338) that would

guarantee full funding of \$900 million for LWCF in perpetuity without the need for an appropriation. Noteworthy this year two Republican senators - Richard Burr (N.C.) and Lindsey Graham (S.C.) - cosponsored S 338.

No such bill has been introduced in the House but four House members introduced legislation (HR 2727) July 18 to insure that states receive at least 40 percent of the annual appropriation from LWCF.

Western Republicans have made their statement with a fiscal 2014 appropriations bill approved by the House subcommittee on Appropriations and Related Agencies July 23. It would provide no money for the federal side, compared to \$186 million (presequestration) in fiscal 2013 and \$225 million in a draft fiscal 2014 Senate subcommittee bill.

For the state side the House subcommittee would provide no money compared to a fiscal 2013 allocation of \$45 million (presequestration) and a Senate subcommittee recommendation of \$45 million.

Congress presently appropriates significantly more money for federal land acquisition than for state conservation grants. For instance, in fiscal year 2012 (the last year with good numbers) Congress appropriated \$186.7 million for federal land acquisition and just \$45 million for state grants.

The division of the LWCF spoils has always been a sensitive spot between environmental groups that champion federal land acquisition and their allies in state and local park and rec offices. The two sides normally don't talk about their differences publicly.

In their draft bill SORP attempted to thread that needle. It recommended these allocations:

Federal land acquisition: \$200 million to be divided among NPS, FS, BLM and FWS.

Sportsmen's access federal lands: \$20 million for access to NPS, BLM, FS

and FWS lands for hunting, fishing and other recreational purposes.

Federal lands maintenance: \$100 million to NPS, BLM, FS and FWS for maintenance projects performed by the Public Lands Corps or similar groups.

Federal, state and local system: \$30 million for planning for a national, coordinated recreation system.

Federal, state landscape projects: \$150 million for multi-state landscape projects.

State and local urban: \$200 million for projects in urban population centers.

State and local non-urban: \$200 million for projects outside urban centers.

Big Florida vote possible: In a related development at the state level the Florida Supreme Court September 26 made way for a campaign to place a proposed Water and Land Conservation amendment on the November 2014 ballot in that state. The amendment would set aside more than \$10 billion for water and land conservation from a real estate transaction fee.

In the next step conservationists will ask state citizens to sign petitions for the placement of the amendment on the ballot. "With the Florida Supreme Court's stamp of approval, we can now move forward to asking voters to establish protection of Florida's water and land as a constant commitment and not something that shifts with the political winds," said Will Abberger, the campaign's chair and director of conservation finance for The Trust for Public Land.

SORP's LWCF position paper is available at <http://www.recpro.org>.

Kootenai Forest plan would protect wild lands from OHVs

Off-highway vehicle (OHV) users are charging that a proposed Kootenai and Panhandle National Forest plan would

effectively designate administratively more than 250,000 acres of wilderness.

The Americans for Responsible Recreation Access (ARRA) said at their website, "As you know, the Wilderness Act provides only Congress with the authority to make the most restrictive land use designation possible. These RODs would cut out Congress altogether and allow these Forests to ban all motorized and mechanized use from huge swaths of public lands. This was never envisioned when the Wilderness Act was enacted and it is imperative that this practice be stopped."

To be fair the draft record of decision and final EIS on the proposed plan would not actually designate wilderness. Instead the documents simply recommend "wilderness allocations for Congressional consideration," says the draft ROD.

But OHVers charge that by restricting motorized access to 85,800 acres and mechanized access to 176,827 acres the plan would create "de facto" wilderness.

"They are managing as if those lands were wilderness," said Larry Smith, ARRA executive director. "They are taking the step of saying motorized vehicles are not permitted and if you want to reconsider you have to write a new plan. That is really shutting the door."

Smith said that Region One of the Forest Service has led the de facto wilderness charge within the agency. "Region One has historically done that, managing roadless areas as if wilderness," he said. Forest Service Chief Tom Tidwell was Region One director when the policy was begun.

The Kootenai proposal is the latest episode in an old argument about the management of roadless lands by both the Forest Service and the Bureau of Land Management (BLM). The agencies are being pulled in two directions - by Republicans demanding greater access and by Democrats demanding greater protection for the resource.

The Republican criticism sort of peaked in April 2011 when House Majority Whip Kevin McCarthy (R-Calif.) and other Republicans introduced legislation that would have released 42.8 million acres of BLM and national forest wilderness study areas to "possible" multiple uses.

The legislation would also have (1) revoked the Clinton administration's 2001 national forest roadless area rule that largely prevents road construction on 58 million acres and (2) blocked a proposed Obama administration "wild lands" policy that would have BLM study roadless areas and designate wild lands on them. Since then the administration has backed off from the wild lands program and Congress has refused to appropriate money for it.

From the other side, in February 2012 Rep. Raúl M. Grijalva (D-Ariz.) and 72 of his House colleagues asked the Forest Service to insure 3 million acres currently recommended for wilderness in forest plans are protected until Congress acts on the recommendations.

OHVers say the Kootenai and Panhandle forest plan would keep alive the Obama administration's wild land protection ambitions by placing proposed wilderness areas off limits to powered vehicle.

At the same time the draft ROD would set aside 250,000 acres for additional protection, it would also open 250,000 acres of backcountry to OHVs and would designate for general forest use another 1.4 million acres.

The Kootenai-Flatlands plan is not one of the prototype plans to be developed under a new Forest Service planning rule. Instead it was begun back in 2006, with a draft plan and EIS published on Jan. 3, 2012. The plan would guide resource management activities on the forests for the next 10-to-15 years.

Details of the planning effort are at: <http://www.fs.usda.gov/detail/kootenai/landmanagement/planning/?cid=stelprdb5345946>.

National trust recommends NPS increase building leasing

The National Trust for Historic Preservation recommended September 25 that the Park Service expand its leasing authority to help maintain some 8,000 historic buildings in the National Park System.

The trust said NPS is not now taking full advantage of the authority Congress has given it to execute long-term leases (up to 60 years) to maintain buildings not maintained by concessioners (standard concessions contracts are for 10 years). Such leases would allow the partner/lessee to use historic rehabilitation tax credits to pay for capital improvements.

"The National Trust believes that enhanced use of historic leasing can be an important tool to reduce the maintenance backlog attributable to historic structures," said Rebecca Morgan, associate director of public affairs for the trust.

Because an expanded leasing program has not been consummated the trust does not have an estimate of how much money would be involved. But the Park Service says that of its \$11.5 billion maintenance backlog, \$4.5 billion involves historic and prehistoric structures.

Morgan said, ("T)here are currently no estimates of the amount of revenue that leasing could bring to the Park Service. There is also no complete list of historic buildings managed by the Park Service that could be appropriate for leasing. Without this type of list, reliable estimates of revenue potential are not possible."

The trust leasing recommendation surfaces as the Park Service, park advocates and Congress are searching for sources of money outside appropriations to upgrade the park system in anticipation of its Centennial in 2016. And in the face of Congressional spending retrenchment.

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National Parks Conservation Association and the National Park Hospitality Association have come up with more than a dozen recommendations.

In a second, less-formalized initiative leading senators from both parties in early June backed public-private partnerships as a means of providing significant new revenues for the system. Those senators include Wyden, John Portman (R-Ohio) and Mark Udall (D-Colo.) They said they are trying to line up support for legislation to establish an endowment with matched dollar-for-dollar, public-private contributions to the parks. Past such proposals recommended as much as \$1 billion per year.

The National Trust for Historic Preservation would complement those efforts with its leasing proposal. The trust estimates the parks contain some 9,600 historic buildings with concessioners operating more than a thousand of them, leaving more than 8,000 structures as possible candidates for leasing.

Congress in the National Parks Omnibus Management Act of 1998 directed NPS "to simplify, to the maximum extent possible, the leasing process for historic properties with the goal of leasing available structures in a timely manner."

Leasing operations differ from concessioners primarily because concessions are supposed to provide services to parks visitors and, according to the trust, "Leasing of historic properties is primarily intended to ensure the use and preservation of historic resources currently unneeded for park operations."

But the trust said that for a number of reasons, including the transfer of leasing responsibilities to a Commercial Service Program, NPS has not availed itself fully of the Congressional authority. The trust said the commercial program is primarily concerned with concessions contracts, perhaps to the detriment of leasing.

"The unintended consequences of

this shift included a reduction in the priority given to historic leasing, the conflation of leasing with concessions, the prioritization of revenue generation over historic preservation, and a proliferation of policies and practices that do not accommodate the realities of the real estate market," says the trust.

The report, *Historic Leasing in the National Park System*, offers a number of examples of leases that some parks are issuing. For instance the Fort Mason Center in Golden Gate National Recreation Area in San Francisco was converted to a lease in 2005 to manage and maintain a nonprofit arts and culture center in the former military base.

"The lease includes all of the historic buildings in Lower Fort Mason, which allows the Center to manage sub-leases with a variety of organizations. This conversion provided greater stability and assurances of continued operation to the Center and its sub-lessees," says the report.

The report is available at: <http://www.preservationnation.org/information-center/saving-a-place/public-lands/>

Rec fee supporters recommend one-year FLREA extension

They haven't succeeded thus far, but a broad coalition of outdoor interests last week recommended that Congress attach one-year extension of a recreational fee law to any temporary spending bill.

In that the House and Senate at press time were still dueling over what to put in an interim appropriations bill - or even if they will move such a measure - there may still be a slim hope for the fee law extension.

But it doesn't look likely because Senate Democrats are committed to a barebones spending extension and House Republicans are already pushing the political boundaries with demands to delay a new health care law.

Still, the recreation alliance of conservationists, the recreation industry, tourism officials and government officials are trying to remind legislators that the existing Federal Lands Recreation Enhancement Act (FLREA) expires on Dec. 8, 2014. An extension of FLREA would provide time to write a new law.

"Should FLREA expire in December 2014, federal land agencies would lose approximately \$300 million in revenues during a time of considerably constrained budgets," the groups wrote House and Senate leaders. "The loss of these fee revenues would equal the reductions imposed by the FY13 sequester for the National Park Service. A simple extension of FLREA to December 2015 would allow Congress to consider a longer reauthorization and potential adjustments."

Among the groups that signed the letter are the American Hiking Society, Association of Partners for Public Lands, National Association of State Park Directors, National Parks and Conservation Association, National Park Hospitality Association and the Outdoor Industry Association.

At a June 18 hearing of the House Natural Resources Committee various interests advanced three separate strategies for extending FLREA:

Simple extension. Like the interest groups the Obama administration in its fiscal year 2014 budget request recommended a one-year extension of FLREA.

Rewrite. The leading critic of the bill, the Western Slope No-Fee Coalition, so dislikes FLREA that it says Congress should scrap it and write a new law now.

Multi-year extension, plus. The recreation industry recommended a three-year extension of FLREA combined with pilot programs to test new fees, such as variable entrance fees to the Park Service that would peak in peak seasons.

FLREA, enacted on Dec. 8, 2004 (PL 108-447, Section 804) was only good

for 10 years. The law brings in about \$270 million per year and most of the money is used to improve recreation facilities.

The Park Service reaps about \$179 million per year, or about eight percent of its recreation budget; the Forest Service takes in about \$66 million, or 25 percent of its recreation budget; the Bureau of Land Management receives \$18 million, or 25 percent of its recreation budget; the Fish and Wildlife Service grosses \$5 million, or one percent of its rec budget; and the Bureau of Reclamation receives less than \$1 million.

Much of the recreation establishment supports renewal of FLREA. That includes House Appropriations subcommittee on Interior and Related Agencies Chairman Mike Simpson (R-Idaho), who may or may not be asked to extend FLREA in the stead of the authorizing committee.

The lead critic of FLREA, Western Slope No-Fee Coalition President Kitty Benzar, has concentrated her fire on the Forest Service and BLM practice of charging entrance fees to large areas that contain developed sites, even if the visitor does not intend to use the developed campground or marina. Those are called amenity fees.

Benzar charged the agencies have abused special amenity fees by building unneeded facilities in an area in order to call it developed and by defining special areas overly broadly.

Flurry of sportsmen's access bills flushed out on Hill

The House and Senate continue to work on packages of hunting and fishing bills that, among other things, declare public lands open to sportsmen unless specifically closed.

Perhaps the lead House bill is an omnibus measure (HR 3197) introduced September 26 that includes nine separate hunting and fishing bills that had been introduced previously this year. The measure, with Rep. Rob Latta (R-Ohio) as

chief sponsor, would:

- * reauthorize the land sale/acquisition law called the Federal Land Transaction Facilitation Act,

- * reauthorize the North American Wetlands Conservation Act,

- * exempt lead ammunition and fishing tackle from the Toxic Substance Control Act,

- * authorize the use of firearms at Corps of Engineers water projects, and

- * limit fees for filming crews of five persons or more to \$200 per year.

The Latta bill closely parallels a similar omnibus Senate bill (S 1335) introduced by Sen. Lisa Murkowski (R-Alaska) with a couple of important exceptions.

One, the Murkowski bill also include a provision that would allocate at least 1.5 percent of Land and Water Conservation Fund (LWCF) money to acquiring access to public lands for hunting and fishing. Two, Latta has important Democratic cosponsors - Murkowski's bill was introduced just by Republicans.

"This bipartisan legislative package is an important advancement for the outdoor sporting community, and I look forward to working with my colleagues to move this legislation forward and to promote the values and traditions that sportsmen and sportswomen enjoy in the United States," said Latta.

Among the Democrats cosponsoring the bill were Rep. Bennie Thompson (D-Miss.) and Tim Walz (D-Minn.)

To the U. S. Sportsmen's Alliance the "open unless closed" provision is the big one. "This language is the top federal priority for the U.S. Sportsmen's Alliance because it blocks many potential lawsuits aimed at closing public land to American sportsmen and women," the alliance said in endorsing the bill.

In a separate action Murkowski and Sen. Joe Manchin (D-W.Va.) introduced January 29 a bill (S 170) that includes just the open-unless-closed provision. Rep. Dan Benisek (R-Pa.) has introduced

a House version of the open-unless-closed bill (HR 1825), which is included in the Latta package.

To further complicate matters Sen. Martin Heinrich (D-N.M.) introduced legislation (S 1554) September 26 that would authorize the use of 1.5 percent of LWCF money for access for hunting and fishing. In addition the Heinrich bill would have all federal land management agencies inventory lands where hunting and fishing are legal, but inaccessible.

The Theodore Roosevelt Conservation Partnership (TRCP) supports elements of most of the bills. Of the Heinrich bill, Whit Fosburgh, president of TRCP, said, "Loss of access is the number one reason sportsmen stop pursuing the traditions we cherish. Sen. Heinrich's HUNT Act addresses the problem of declining access in America by eliminating a major obstacle to our ability to recreate on publicly owned lands and waters."

In the last Congress both the House and Senate approved numerous bills that included provisions that were in Murkowski's 20112 catchall bill, but they were not enacted because of opposition on the Senate floor to almost all legislation coming out of the Senate Energy Committee. In addition the House sometimes added provisions unacceptable to the Senate, such as a ban on national monuments.

Administration opens refuges: In a related development September 24 the Fish and Wildlife Service announced it was opening six refuges to hunting and fishing, expanding hunting and fishing on another 20 refuges, and revising existing regulations for more than 75 refuges and wetland districts.

Boxer airs new source of surface transportation money

Sen. Barbara Boxer (D-Calif.), the doyenne of surface transportation law, has raised the possibility of a new source of revenues to finance surface transportation programs.

Instead of gasoline taxes, Boxer

suggested September 25 that Congress pay for highways and trails with oil wholesaler fees, i.e. the levy that gas stations pay when they buy supplies.

According to *The Hill* newspaper Boxer said at an infrastructure hearing held by the Senate Environment and Public Works Committee (EPW) that she chairs, "There are many ideas out there, and the one that I'm leaning toward myself, although this is going to be a decision of the (Senate) Finance Committee. . . is to do away with the per-gallon fee at the pump and replace it with this sales fee as they've done in Virginia and Maryland."

However, that would require a lot of fees. The gasoline tax now brings in about \$35 billion per year, albeit far below the \$54 billion base needs of the most recent surface transportation law, *Moving Ahead for Progress in the 21st Century*. To make up the difference between the gas taxes and the existing authorization Congress had to tap a number of other pots of money, including general revenues.

The surface transportation law now in effect, *Moving Ahead for Progress in the 21st Century Act (MAP-21)*, PL 112-141 of July 6, 2012, provides surface transportation money, including for recreation, through September 2014. The existing 18.4 cents per gallon tax falls far short of paying the annual \$50 billion-plus bill surface transportation bill for the country, so Congress has had to borrow from general revenues. That is unlikely to happen again.

So Boxer and her counterpart House Transportation Committee Chairman Bill Shuster (R-Pa.) are searching for additional revenues, including higher gasoline taxes and other sources.

The big players in the game, though, are recommending an increase in the gasoline tax, as politically problematic as that is. The big players include the U.S. Chamber of Commerce and the American Automobile Association.

At the Senate hearing the umbrella group the American Highway Users Alliance endorsed the gasoline tax for

two new reasons. "First, the passage of MAP-21 went a long way toward restoring public trust in federal transportation programs," said alliance President Gregory M. Cohen.

"Second, . . . the Highway Trust Fund is in an extraordinarily bad fiscal situation. The Highway Users strongly supports user-pay/user-benefit concept that underpins the Highway Trust Fund. And as users, we agree that we are not currently paying enough to even maintain existing conditions."

The risks to recreation are extreme if a secure source of money is not found for both highway construction and highway-related programs. For some transportation experts, recreation should be the first to go.

If the political will is not there to increase gasoline taxes, Robert W. Poole, Jr., director of transportation policy for the Reason Foundation, suggests eliminating recreation programs and transit programs that are financed by MAP-21.

If the Highway Trust Fund gasoline taxes were used only for interstate purposes, Poole told the House Budget Committee April 24, existing gasoline tax revenues would almost carry the day. "This approach would recognize that the size of the annual shortfall is approximately the amount of highway user-tax revenue devoted each year to the HTF's Transit Account and other non-highway programs," he said. "The 10-year CBO projection shows annual highway contract authority at \$41 billion, and the sum of revenues and interest allocated to the Highway Account and the Transit Account as averaging \$40.1 billion per year."

Meanwhile, other House and Senate leaders responsible for finding money for surface transportation programs, including outdoor programs, have promised to consider all sources to pay the bill long into the future. Most important, House Committee Chair Shuster is leaving the door open to an increase in gasoline taxes to power the Highway Trust Fund, which in turn

powers transportation-related recreation programs.

MAP-21 kept most recreation programs alive, although it modified old outdoor programs. It consolidated such programs as transportation enhancements and recreational trails into a Transportation Alternatives line item. The estimated allocation to the Transportation Alternatives program is \$760 million per year, or about a \$200 million decrease.

In addition the programs now must complete with each other and with other programs for the \$760 million. Within Transportation Alternatives MAP-21 set aside \$85 million for the recreational trails program, while allowing states to opt out if they wished. Only Florida opted out his year.

Conservationists object to O&G permit near Glacier

Conservationists asked a federal court September 26 for the right to intervene in a lawsuit involving oil and gas development adjacent to Glacier National Park.

Five groups in effect said they didn't trust the federal government to contest an oil company's request to the court for permission to drill an oil and gas lease in the Badger-Two Medicine Region of the Lewis and Clark National Forest in Montana.

The petitioners fear that if the court allows Solenex LLC to proceed with development that approval will open the way for development of other leases in the area. Sen. Max Baucus (D-Mont.) and others have been attempting for years to prevent the drilling of leases within the 133,000-acre area with considerable success.

The intervention by the conservationists may be designed to persuade Solenex to either voluntarily relinquish the leases or to open the way for the buy-out or trade-out of the lease.

Said Jack Gladstone, board member

of Blackfeet Headwaters Alliance, "I would still prefer a diplomatic resolution to our dispute, not a legal battle, but now it becomes necessary to fight for the natural and cultural integrity of the Badger-Two Medicine. (Solenex) will learn, as others have, that Blackfeet are excellent warriors." The alliance is one of the petitioners.

The Badger-Two Medicine area lies on the Rocky Mountain Front adjacent to Glacier National Park in the west in northwest Montana. The area is largely unroaded and in March 2009 the Forest Service banned motorized vehicles from all trails in the area.

The lease at issue was first sold in 1982. The Forest Service subsequently approved several permits to drill within the lease, but in 1994 suspended the lease. The suspension was continued indefinitely. Now Solenex is arguing that it holds a valid existing right and the Forest Service is obliged to allow it to develop the lease. Solenex filed suit on June 28 in the U.S. District Court for the District of Columbia.

On September 26 the conservationists, led by the Earthjustice environmental law firm, asked the court for permission to intervene. The conservation groups, including the National Parks Conservation Association, said, "The Federal Defendants do not adequately represent Applicants in this action because their multiple-use approach to management of National Forest lands often conflicts with Applicants' conservation and cultural interests. In the alternative, Applicants should be granted permissive intervention."

The petitioners said more than just the Solenex lease was at issue because the case "could affect not only the Hall Creek site but also other lease sites similarly situated in the Lewis and Clark National Forest."

The petition is available at: <http://earthjustice.org/documents/legal-document/pdf/badger-two-medicine-lease-motion-to-intervene>.

Notes

FS proposes ski area directive.

The Forest Service October 2 proposed several changes to its policies governing year-round activities at ski areas. The service has already posted a directive carrying out a 2011 law authorizing such summer activities as zip lines, mountain bike parks, Frisbee golf course and rope courses. The proposed new directive would specify forbidden activities in the 122 ski resorts operating on national forest lands. The forbidden uses include tennis courts, water slides and water parks, swimming pools, golf courses and amusement parks. In addition the proposed directive would guide use of ski areas by the non-paying public, i.e. cross-country skiers or hikers. The service is taking comments until December 2 at <http://www.regulations.gov>. Comment by mail to: *USDA Forest Service Ski Area Comments, Pacific Southwest Regional Office, 1323 Club Drive, Vallejo, CA 94592.*

GOP asks Yosemite timber cuts.

In two steps western House Republicans are moving to authorize major timber salvage sales in the portion of Yosemite National Park 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 in 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 timber salvage sales without further environmental review in Yosemite National Park and Stanislaus National Forest. Both bills would also forbid litigation. There is pushback from Democrats, including Democrats who are friends of the timber industry. They say the legislation is too sweeping and recommended instead strike teams that would identify priority timber harvest areas. 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." 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, including Yosemite Valley, home to many of the park's principal sites.

Congress joins skiers' water fight. Five House members introduced legislation (HR 3189) September 26 on the side of private water rights claimants and against federal land management agencies. The bill, with lead sponsors Reps. Scott Tipton (R-Colo.) and Mark Amodei (R-Nev.), would forbid federal agencies from using backdoor strategies, i.e. withholding of permits, to obtain water rights. 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. A federal court entered the act on Dec. 19, 2012, when he threw out a Forest Service water rights policy on procedural grounds. Judge William J. Martinez in U.S. District Court in Colorado said the Forest 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, Amodei 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." Said Tipton, "Long-held state water law protects the many uses vital to Colorado and Western States—from recreation to irrigation, domestic use and environmental protection. Unfortunately, all of this is being undermined by federal intrusion that creates uncertainty and jeopardizes the livelihoods of communities, individuals, and businesses responsible for thousands of jobs. To undermine this system is to create risk and uncertainty for all Western water users."

EPA reviewing coal plant. As expected, EPA said September 26 it would review an agreement between the Interior Department and several other parties over the future of the giant Navajo Generating Station in Arizona. Conservationists, who say the coal-powered station sends large amounts of pollutants over western national parks, praised the agreement. But they said they preferred an alternative arrangement developed by EPA that would expedite cleanup of the air by the coal-powered plant 11 years sooner. The plant produces ozone and fine particle pollutants that drift over ten Class I wilderness areas and national parks in the Southwest. That includes Grand Canyon National Park. The National Parks Conservation Association (NPCA) said it did not endorse the Interior plan. "Nevertheless," said NPCA Arizona Program Manager Kevin Dahl, "this is a great start for a discussion with the larger community of interested parties, including Navajo and Hopi residents who have suffered for decades from the operation of this polluting plant and the coal mine that feeds it." The Interior Department reached its agreement July 26 with the Central Arizona Water Conservation District, Navajo Nation, Gila River Indian Community, Salt River Project, Environmental Defense Fund, and Western Resource Advocates. EPA published a separate proposal February 5 that

would direct the station to install new emission equipment by 2018. The Interior proposal calls for the owners of the station to phase out the use of coal by Dec. 22, 2044. EPA will now review the Interior proposal and make a decision on it.

Bayou NHA bill reintroduced.

Three House Democrats and two House Republicans joined together September 26 to introduce legislation (HR 3184) that would designate a Buffalo Bayou National Heritage Area (NHA) in Texas. The NHA would mark a 25-mile stretch of the Houston Ship Channel that has historical (Battle of San Jacinto) and commercial (shipping) implications. Said lead sponsor Gene Green (D-Texas), "Buffalo Bayou has a long history of significance for the state and nation, from the Battle of San Jacinto, where Texas won its independence from Mexico, to driving our national economy today as one of the biggest energy and petrochemical complexes in the U.S." Buffalo Bayou would be the first national heritage area in Texas. The Park Service completed a report in 2010 that said the site is eligible for heritage area designation.

Murkowski asks Alaska roadless access. Sen. Lisa Murkowski (R-Alaska) reiterated her demands September 27 that the Forest Service use the flexibility it has under a roadless area rule to allow limited commercial activities in national forests in Alaska. And she urged Forest Service Chief Tom Tidwell to use that authority. "Alaska is not like the Lower 48, which is covered in roads," Murkowski said. "If you want to install a hydropower project to generate renewable and affordable electricity, you have to also build a road to the energy resource. Our inability to build roads because of this regulation is an economic dead end for communities in Southeast." She also reiterated that the Clinton administration rule of 2001 authorizes the Forest Service to approve some activities in the forests. In March 2011 a federal judge in Alaska ruled that the Tongass National Forest must be included under the rule, reversing a 2003 Bush administration exemption.

Boxscore of Legislation

Appropriations Interim Fiscal 2014

HJ Res 59 (Rogers). House approved several times. Senate approved several times. House bill unacceptable to administration and led to government shutdown. Bill does include \$660 million payback for fire fighting.

Appropriations Fiscal 2014 (Interior)

No bill number yet. House committee began mark-up July 31. Draft Senate bill proposed August 1. House panel would keep NPS operations about level but cut severely almost all conservation programs. Senate would appropriate significant increases.

Appropriations Fiscal 2014 (Agriculture)

HR 2410 (Aderholt). House committee approved June 13. Senate committee approved June 20. Senate committee would provide more money.

Appropriations Fiscal 2014 (Energy and Water)

HR 2609 (Frelinghuysen). House approved July 10. Senate committee approved June 27. Senate bill would provide significantly more money.

Appropriations Fiscal 2014 (Transportation)

HR 2610 (Latham), S 1243 (. House bill pulled from floor July 31. Senate bill approved from floor August 1. Senate bill would provide significantly more money.

Congressional Budget Fiscal 2014

H Con Res 25 (Ryan), S Con Res 8 (Murray). House approved March 21. Senate approved March 23. Senate anticipates \$6 billion more for natural resources than House.

Land and Water Conservation Fund

S 338 (Baucus), HR 2727 (McKinley). Baucus introduced February 14. McKinley introduced July 18. Baucus would guarantee \$900 million per year to program in perpetuity. McKinley would guarantee state grants received at least 40 percent of annual appropriations.

Urban park fund

HR 2424 (Sires). Sires introduced June 18. Would authorize HUD grants and HUD

loans to provide assistance to urban parks.

National recreation commission.

HR 1834 (Grijalva). Grijalva introduced May 6. Would establish a national rec commission with members appointed by Congress and the White House.

National monuments

HR 250 (Chaffetz), HR 382 (Foxx), HR 432 (Amodei), HR 1434 (Daines), HR 1439 (Labrador), HR 151 (Pearce), HR 757 (Stewart), HR 1459 (Bishop), HR 1495 (Gosar), HR 2192 (Nunes), S 104 (Vitter), S 472 (Heller). House hearing April 16. Would require Congressional approval or state approval of national monuments designated under the Antiquities Act.

National heritage areas

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

Montana wilderness/recreation areas

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

Farm bill

S 954 (Stabenow), HR 1947 (Lucas). Senate approved June 11. House rejected June 20. Both would establish new farm policy through 2018, complete with conservation programs.

Hunting federal lands

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

WRDA (Everglades)

S 601 (Boxer), HR 3080 (Shuster). Senate approved May 15. House committee approved September 19. Both would authorize new projects, including Everglades restoration.

Hatteras ORVs

HR 819 (Jones), S 486 (Burr). House committee approved May 15. Senate committee approved June 18. House would rescind a Park Service policy limiting off-road-vehicles on the seashore.