

# Federal Parks & Recreation

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**Obama, Senate act to retain fiscal 2013 spending levels**

President Obama signed into law September 28 a pared-down appropriations bill for the first six months of fiscal year 2013 (PL 112-175). The measure will provide slightly higher spending levels than the House had advocated this spring.

In a separate development on September 25 a Senate Appropriations Committee subcommittee floated a draft full fiscal 2013 Interior and Related Agencies appropriations bill. It is expected to serve as a negotiating position against a counterpart House Appropriations Committee bill (HR 6091). The House committee approved HR 6091 June 28.

The Senate draft, released by both subcommittee on Interior Chairman Jack Reed (D-R.I.) and ranking Republican Lisa Murkowski (Alaska), would provide significantly more money than the House committee. The Senate subcommittee draft would appropriate \$29.662 billion, or \$1.662 billion more than the House committee number of \$28 billion.

The Senate draft would, for the most part, provide modest spending increases over fiscal 2012 and sharp increases over the House committee bill, not only for conservation programs, such as the Land and Water Conservation Fund (LWCF), but also for land management agencies.

In a joint statement Reed and Murkowski said, "While Congress has passed a short-term continuing resolution (for the first six months), we hope this final draft document will serve as a roadmap as discussions continue to finalize a responsible, balanced fiscal year 2013 appropriations bill."

Meanwhile, for the continuing resolution (CR) for the first six months of fiscal 2013 the Senate vote on final passage September 21 was 62-to-30. The House approved the CR September 13 by a vote of 329-to-21. The new fiscal year began October 1.

Park and rec allocations that are included in the mammoth CR will keep all programs in money through March 27, 2012.

In addition to an Interior and Related Agencies spending bill the CR contains appropriations for these three other measures for the first half of fiscal 2013. As for Interior and Related Agencies, the CR provides roughly half of fiscal 2012 appropriations for the first six months of fiscal 2013:

**Transportation:** The Senate Appropriations Committee approved a year-long Transportation money bill (S 2322) April 19 with an appropriation of \$53.4 billion, or almost \$4 billion less than the fiscal 2012 appropriation of \$57.3 billion. The House Appropriations Committee approved its bill June 19 with a spending allocation of \$51.6 billion.

**Energy and Water:** The House approved \$32.1 billion for a year-long Energy and Water spending bill (HR 5325) June 6, or just about the same as the fiscal 2012 appropriation. The \$32.1 billion is \$1.3 billion less than the Senate 302(b) allocation of \$33.4 billion. The Senate committee approved its version of a bill (S 2465) April 26.

**Agriculture:** The Senate committee approved a year-long Agriculture appropriations bill (S 2375) April 26 with a spending cap of \$20.8 billion, or \$1.4 billion more than a House cap of \$19.4 billion. The House Appropriations Committee approved its bill June 19.

Here are the first half fiscal 2013 numbers for the Interior and Related Agencies portion of the CR, compared to the House committee's full-year recommendations and the Senate subcommittee's full-year draft recommendations:

For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$186.7 million. The House committee recommended \$51,578,000 for the entire fiscal 2013 and the Senate subcommittee recommended \$213 million.

\* *LWCF STATE GRANTS:* For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$45 million. The House committee recommended \$2.8 million for the entire fiscal 2013 and the Senate subcommittee recommended \$45.6 million.

\* *STATE WILDLIFE GRANTS:* For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$61.3 million. The House committee recommended \$30.6 million and the Senate subcommittee \$61.3 million.

\* *HISTORIC PRESERVATION FUND:* For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$46.9 million. The House committee recommended \$42.5 million and the Senate subcommittee \$46.9 million.

\* *NPS OPERATIONS:* For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$2.240 billion. The House committee recommended \$2.228 billion for the entire fiscal 2013 and the Senate subcommittee recommended \$2.256 billion.

\* *NPS CONSTRUCTION:* For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$155.3 million. The House committee recommended \$131.2 million and the Senate subcommittee recommended the same, \$131.2 million.

\* *NPS REC AND PRES:* For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$59.9 million. The House committee recommended \$51.8 million for the entire fiscal 2013 and the Senate subcommittee recommended \$60.2 million. The big difference is heritage areas (see following item.)

\* *LWCF ACQUISITION FEDERAL:*

\* *NPS HERITAGE AREAS:* Included

in rec and pres above. For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$17.3 million. The House committee recommended \$9.3 million for the entire fiscal 2013 and the Senate subcommittee recommended \$17.3 million.

\* *FWS*: For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$1.226 billion. The House committee recommended for the entire fiscal 2013 \$1.040 billion and the Senate subcommittee recommended \$1.245 billion.

\* *FOREST SERVICE*: For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$1.554 billion. The House committee recommended \$1.495 billion for the entire fiscal 2013 and the Senate subcommittee recommended \$1.478 billion.

\* *FS RECREATION*: For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$281 million. The House committee recommended \$260 million for the entire fiscal 2013 and the Senate subcommittee recommended \$267 million.

\* *BLM RECREATION*: For the first half of fiscal 2013 the appropriation will be based on a fiscal 2012 full-year allocation of \$67.5 million. The House committee recommended \$60.9 million for the entire fiscal 2013 and the Senate subcommittee recommended \$67.6 million.

**RIDERS**: For the full-year Interior and Related Agencies bill the House committee and the Senate subcommittee recommended these riders:

\* **MONTANA JOBS BILL (SENATE)**: This amendment, based on a measure (S 268) introduced by Sen. Jon Tester (D-Mont.), would designate 666,000 acres of wilderness, 289,000 acres of recreation areas and 81,000 acres of special management areas. Most of the land is managed by the Forest Service in the Beaverhead-Deerlodge National Forest and the Kootenai National Forest.

\* **MONTANA WILDERNESS DESIGNATION (SENATE)**: This amendment would designate approximately 600,000 acres of national

forest wilderness and 66,000 acres of BLM wilderness.

\* **WILDLANDS (HOUSE)**: Continuing a provision in last year's appropriations law, the House committee would bar the Obama administration from carrying out a proposed policy of identifying and designating wildlands. Republicans argue that only Congress has the authority to designate wilderness.

## Supreme Court ends lawsuits against 2001 roadless rule

Without saying a word the U.S. Supreme Court October 1 let stand a 2001 Clinton administration national forest roadless rule, ending a decade of litigation across the West.

The Supreme Court action consisted of a refusal to consider an appeal by the State of Wyoming of two federal circuit court decisions. The circuits upheld the rule that protects 49 million acres of national forest from most road construction.

National forests in Idaho and Colorado are governed by separate state-specific rules.

Wyoming Gov. Matt Mead (R) said in a statement that he accepted the decision and will abide by it. "While I am disappointed in the decision I am ready to move on continuing to work with the Forest Service about these concerns," he said.

Mead also defended the appeal. "The Roadless Rule impacts an enormous amount of public land in Wyoming," he said. "It places restrictions on three million acres of National Forests in Wyoming, impacting important aspects of our economy because of the consequences to this state. I believe it was beneficial to take our argument to the U.S. Supreme Court."

Hunters and fishermen celebrated. Said Joel Webster, director of the Theodore Roosevelt Conservation Partnership Center for Western Lands, "Sound roadless conservation policies safeguard big-game habitat security,

productive trout and salmon fisheries and our sporting traditions. The 2001 roadless rule remains a strong mechanism for conserving America's outdoor heritage. With the fall hunting season upon us, sportsmen can celebrate this legal victory by enjoying our favorite pastimes on America's prime publicly owned hunting and fishing lands."

The Wilderness Society environmental group that contested lawsuits against the rule was equally pleased. "The Roadless Rule is now indisputably the law of the land," said Society President Jamie Williams. "Today's announcement by the Supreme Court denying Wyoming's petition to review the Roadless Area Conservation Rule case is good news for the millions of Americans who have called for safeguarding our nation's 58 million acres of pristine roadless forest areas for current and future generations." The Wilderness Society worked on the litigation with the environmental law firm Earthjustice.

The path chosen by Wyoming to get to the Supreme Court - a petition for a writ of certiorari - was a difficult one. Under the Supreme Court's rules a writ is granted to review only those cases where an appeal is not available. Four court members must agree to hear a case. The court usually grants only about one percent of such writs.

Both the Tenth Circuit Court of Appeals on Oct. 22, 2011, and the Ninth Circuit on Aug. 5, 2009, had upheld the Clinton rule that limits road construction and timber sales on 49 million acres of national forest. The Obama administration has signaled it will implement the Clinton rule.

Wyoming had argued in its appeal to the Supreme Court that the Clinton administration infringed on Congress's authority to designate wilderness; that the Clinton administration violated the National Forest Management Act by not revising forest plans individually; and that the EIS prepared for the rule was illegal under the National Environmental Policy Act because the result was predetermined before the EIS process began.

**\* THE IDAHO SITUATION:** The State of Idaho successfully petitioned the Forest Service for an Idaho-only rule. The Forest Service approved it Oct. 16, 2008. The Idaho rule governs management of 9.3 million acres of roadless national forest in the state, while allowing development on another 400,000 roadless acres. On January 29 Idaho District Court Chief Judge William Winmill rejected a lawsuit from environmentalists against the Idaho rule.

**\* THE COLORADO SITUATION:** The State of Colorado also successfully petitioned the Forest Service for a Colorado-only rule. The July 3 Forest Service regulation bars road construction on 4.2 million acres of national forests in Colorado.

The rule carves out exceptions to the 2001 Clinton administration roadless rule, including areas for energy development.

The Colorado rule does not protect 19,100 acres of coal mining areas, allows temporary road construction for existing oil and gas lessees, and does not protect 8,300 acres near ski resorts that were included in the 2001 rule, among other things.

The Forest Service prepared the Idaho-only and Colorado-only rules under a Bush administration policy that authorized states to write their own national forest roadless area policies as exceptions to the Clinton rule.

**\* THE ALASKA SITUATION:** In a March 4 decision U.S. District Court Judge John W. Sedwick in Alaska ordered the Tongass National Forest included in the national rule protecting roadless areas. The Bush administration in 2003 issued an Alaska-specific rule that exempted the 16.8 million-acre Tongass from the 2001 Clinton rule.

## California enacts legislation to keep all parks open

California Gov. Jerry Brown (D) signed two bills September 25 that will ensure that all state parks remain open

through fiscal years 2012-2013 and 2013-2014.

The California legislature passed the bills (1) to make up a \$22 million budget shortfall for the California Department of State Parks and (2) to shake free a secret stash of \$54 million that the department had been sitting on.

The lead bill (AB 1478) from Assemblyman Robert Blumenfield (D) allocates \$20 million from the secret stash for operation of the state parks. It also appropriates \$10 million from a 2006 conservation bond program for the parks. Another \$10 million is expected to come from private and local matches.

The other bill (AB 1589) from Assemblyman Jared Huffman (D) directs the parks department to develop a plan for generating revenues (i.e. more fees) and would allow taxpayers to allocate a portion of refunds to a California State Parks Protection Fund.

As *FPR* has documented, for several years the State of California has been the poster child of problem states that have struggled to keep their parks open during the recession. Even though the state has one of the largest and most-praised park systems in the nation.

California State Parks had announced earlier this spring plans to close 70 units of the state's 278 parks by July 1. But nonprofit groups and individual contributors stepped up to offset the budget cuts.

Then the scandal hit. On July 15 the *Sacramento Bee* reported that California State Parks was sitting on \$54 million, even as Brown was slashing the agency's budget. The revelation prompted state parks director Ruth Coleman to resign.

Meantime, Brown has appointed California Natural Resources Agency Undersecretary Janelle Beland as acting interim director of the parks department in the wake of Coleman's resignation and the firing of her deputy.

The budget revelations also prompted Blumenfield and Huffman to

write their legislation to pump up the California State Parks Treasury. Said Blumenfield, "My heart goes out to parks advocates who feel burned by this fiasco. They heroically raised millions to help keep parks open."

Said California State Parks Foundation President Elizabeth Goldstein, "While we do not believe that our state park system, a true public good, will ever be able to sustain itself without a core of dedicated, public funding, we do wholeheartedly agree that the movement toward more revenue generation should be done with a roadmap."

The foundation has done much of the grunt work to raise private and local money to keep the parks afloat.

In a separate but related dispute, the current year Brown budget diverted \$21 million from a user-paid off-highway vehicle (OHV) trust fund to help keep California state parks open. That's on top of a \$10 million OHV fund reallocation in last year's budget, doubly infuriating OHV users.

Now comes the revelation that the parks department was sitting on \$54 million that was apparently unknown to the rest of the state government and the legislature - \$33.5 million in unspent OHV money and another \$20.4 million in unspent park operations money.

The State Park and Recreation Fund with the spare \$20,378,000 receives money from fees, rents and other revenues collected by state park units. The money is to be used for management, planning and acquisition of the state park system.

The Off-Highway Vehicle Trust Fund with the spare \$33,492,000 receives money from OHV registration fees, transfer fees and OHV-related penalties. The money is to be used for development and acquisition of OHV areas. This is the fund that the legislature has been tapping to help keep parks running, including parks that do not allow OHVs.

Almost 70 million people visit the state's parks annually, and they

generate an annual economic benefit of more than \$6 billion statewide.

## House stops Manhattan Project park twice in one week

For the second time in a week the House September 20 refused to pass legislation that would establish a Manhattan Project unit in the National Park System.

The measure (HR 5987) was brought up under a procedure requiring a two-thirds vote for approval. While a majority voted for it, 237, enough members voted against, 180, to defeat it. On September 19 the House in a voice vote refused to pass HR 5987.

Strange bedfellows teamed up to slow the bill, which can still come up in the fall under regular procedures. Liberal Democrats and conservative Republicans opposed the legislation. The no votes ranged from liberals such as Reps. Dennis Kucinich (D-Ohio) and John Conyers (D-Mich.) to conservatives such as Reps. Jeff Flake (R-Ariz.) and Jeb Hensarling (R-Texas).

Kucinich was the only member to speak against the bill on the House floor. He objected on moral grounds because HR 5987 would indirectly pay homage to nuclear weapons. "At a time when we should be organizing the world towards abolishing nuclear weapons before they abolish us, we are instead indulging in admiration at our cleverness as a species," he said. "The bomb is about graveyards; it's not about national parks."

But bill sponsor and House Natural Resources Committee Chairman Doc Hastings (R-Wash.) defended the legislation as a tool to commemorate the American wartime effort to produce the bomb.

"What this bill purports to do is nothing more than to talk about the ingenuity of the American people to develop this weapon when the nuclear industry was relatively in its infancy, and did it in such a short time frame," he said.

Although she voted against the bill Rep. Betty McCollum (D-Minn.) said in a statement she might support it eventually. But first she wants to know how NPS will balance the great feat of developing the bomb with the deaths it has caused.

"There are important questions about how the National Park Service will interpret this new monument," she said. "These questions should be answered before H.R. 5987 moves forward. While I do not oppose the establishment of a national historic park recognizing the Manhattan Project, I expect the necessary consultations with stakeholders to occur prior to passage of this legislation."

The House bill, reflecting western Republican concerns about an expanding federal land base, would not allow land purchase. It would also forbid the use of condemnation to obtain land and would bar federal agencies from establishing a "buffer zone" around the park properties.

A counterpart Senate bill (S 3300) from Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) specifically authorizes land acquisition, does not mention condemnation and does not mention buffer zones.

Although the Park Service has completed a study of the proposed site and recommended its designation, the Obama administration said it was apprehensive about those three areas of the House bill.

The Park Service said there would be a cost with operations and maintenance ranging from \$2.45 million to \$4 million per year and the writing of a management plan of \$750,000.

The site would focus on three locations where the atomic bomb was devised and built - Los Alamos, N.M.; Oak Ridge, Tenn.; and Hanford, Wash. Most of the land and buildings would come from existing Department of Energy facilities. But the Senate legislation does authorize the acquisition of private land from willing sellers.

The Manhattan bill had seemed like a good candidate for a lead bill to pull an omnibus lands bills after the November 6 elections. But the opposition of Kucinich, and perhaps like-minded senators, could squelch that deal.

## **Senate agrees to vote on Tester omnibus wildlife bill**

The Senate September 21 set a date certain of November 13 for a vote on passage of an omnibus wildlife bill with major implications for recreation on federal lands.

Politically, the setting of a vote is supposed to help chief sponsor Sen. Jon Tester (D-Mont.) prevent Rep. Dennis Rehberg (R-Mont.) from taking his seat in the November 6 elections. The winner could decide which political party enjoys a majority in the Senate in the next Congress.

More practically, the bill (S 3525) includes 19 separate bills, including one that would allocate at least 1.5 percent of federal Land and Water Conservation Fund (LWCF) money to provide access to federal lands for hunting and fishing.

A more controversial provision would insure that fishermen and non-waterfowl hunters could continue to use lead tackle and ammunition by forbidding EPA from issuing regulations.

Another provision would extend and expand a federal land sale law called the Federal Land Transaction Facilitation Act (FLTFA). That program, which expired in 2011, authorized the sale of excess Bureau of Land Management (BLM) and Forest Service lands and used the proceeds to acquire conservation lands.

Even more controversially, S 3525 provides a vehicle for Arizona senators to amend to authorize a land exchange that would open the way for a major copper mining operation run by Resolution Copper Co. However, the Senate September 19 refused to add the Resolution Copper amendment to S 3525.

Senate Majority Leader Harry Reid (D-Nev.) had hoped to hold a final vote on the broad wildlife bill September 21 before the Senate adjourned/recessed until after the November 6 elections. But he was only able to secure a vote to end a filibuster against the bill and to schedule the formal vote for November 13. The filibuster vote was 84-to-7.

Tester summarized the 19 separate bills he had wrapped into S 3525: "These bills increase access for recreational hunting and fishing. They support land and species conservation. They protect our hunting and fishing rights. Most important, they take ideas from both sides of the political aisle. It is not about Democrats."

Conservationists praised the initiative. "The Sportsmen's Act of 2012 represents a balanced and cost-effective approach to addressing both conservation and sportsmen's issues," said Bob Bendick, director of government relations for The Nature Conservancy.

But some environmentalists objected to the lead equipment provision. "Sen. Tester's bill is meant to appeal to sportsmen, but there's nothing sporting about using lead ammunition that unintentionally kills so many other animals," said Bill Snape, senior counsel at the Center for Biological Diversity. "The EPA can finally put an end to this national tragedy, but not if Congress gets in the way."

Here are some of the provisions in the bill and two possible amendments:

**LWCF allocation provision:** Tester would use "not less than" 1.5 percent of federal LWCF money to provide access to public lands for hunting and fishing. The bill directs the Interior Department and the Forest Service to establish a priority list of sites that have "significantly restricted access for hunting, fishing, and other recreational purposes through rights-of-way or acquisition of land from willing sellers." Tester has introduced the provision as a stand-alone bill (S 901).

**Lead sporting equipment provision:**

Tester would bar the EPA from issuing regulations that would forbid the use of lead for fishing tackle and ammunition for hunting non-waterfowl species. Lead shot is already barred nationwide for use in hunting waterfowl.

The provision may not have much impact because EPA already rejected in March an environmentalist petition to ban lead shot for fishing tackle and ammo for hunting non-waterfowl species. EPA said it does not have authority under the Toxic Substances Control Act to regulate lead gear.

**FLTFA provision:** This is popular with both sides of the aisle. Tester would authorize the sale of excess public land, often to developers, with the revenues used to acquire conservation lands. However, the law expired in 2011 and Congress has been unable to move legislation to extend it.

The Tester bill would authorize FLTFA through fiscal 2022. And it would include an important change by making lands eligible for sale that were cleared for disposal by land use plans completed *after* 2000. The old law only allowed the sale of lands cleared by plans completed *prior* to 2000.

The House subcommittee on National Parks, Forest and Public Lands held a hearing May 17 on a lead House bill (HR 3365) introduced by Rep. Cynthia Lummis (R-Wyo.) The Senate Energy Committee on Sept. 6, 2011, approved a lead Senate bill (S 714) introduced by committee chairman Jeff Bingaman (D-N.M.)

**Major hunting amendment:** Not in the bill, but Sen. Lisa Murkowski (R-Alaska) has proposed this amendment to S 3525. Its most important provision would open BLM and Forest Service lands to hunting and fishing unless the lands were specifically closed to those uses. The amendment would exempt in general national parks and wildlife refuges. No vote has been held yet on the Murkowski amendment.

**Resolution Copper amendment:** Not in the bill but Sen. Jon Kyl (R-Ariz.) and Sen. John McCain (R-Ariz.) may try once again to add an amendment to move

the mining land exchange measure.

This sticking point remains: When the Senate Energy Committee approved a Resolution Copper bill in the last Congress introduced by Kyl, the measure specified that environmental documentation (presumably an EIS) would be required prior to an exchange. However, Arizona Republicans now insist that an EIS not be prepared until after Resolution Copper completes a mining plan of operation. The Obama administration generally supports the exchange, except for the Republican environmental review provision.

## **Feds agree to cooperate on first blueway in Connecticut**

Two federal departments and the Corps of Engineers concluded an agreement September 29 to coordinate initiatives to enhance the nation's first blueway along the Connecticut River watershed.

The Connecticut River and Watershed National Blueway was actually designated on May 24 by Secretary of Interior Ken Salazar. But the agreement struck last week details how the Interior Department, the Department of Agriculture and the Corps are to cooperate with local entities in the management of the watershed.

The agreement promises federal agencies will aggressively support projects in the watershed, saying the parties will: "Consistent with agency priorities and to the extent allowable in light of legal, budgetary, and policy limitations, including competitive selection processes, ensure robust consideration of projects and proposals within the National Blueway when deliberating on the award of agency grants, enrollment in programs, agency initiatives, and/or other agency assistance."

But the Memorandum of Understanding (MOU) makes clear no extra money will be provided. "This agreement and the obligations of the parties to this MOU hereunder shall be subject to the availability of funding,

and nothing herein contained shall be construed as binding the parties to this MOU to expend in any one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of this MOU for the fiscal year, or to involve the parties to this MOU in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations," it says.

The Obama administration touts the blueways system as a signal achievement of the President's America's Great Outdoors Initiative. Although the Connecticut River watershed is the only example of a blueway thus far, the agencies call it a "model for the National Blueways System."

When the department announced the designation of the Connecticut Blueway in May, it anticipated additional nominations around the country and new national standards for the blueways.

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

Even though criteria have not been established yet Salazar in May designated the Connecticut River unit that extends through Vermont, New Hampshire, Massachusetts and Connecticut. Some 2.4 million people live in the watershed in 396 communities.

Interior, Agriculture and the Corps said they would work closely with the Friends of Conte Refuge and the Connecticut River Watershed Council "to enhance conservation, restoration, outdoor recreation and environmental education" in the 7.2 million-acre watershed. The MOU is available [here](#).

## Congress heads for elections with farm bill in limbo

The Congressional failure to pass either a long-term farm bill or a short-term extension of the last farm bill before adjourning/recessing September 21 will have major adverse impacts on conservation programs.

The Department of Agriculture has told interest groups that a Wetlands Reserve Program, a Grasslands Reserve Program and a Chesapeake Bay Watershed Initiative have come to a halt. Said Steve Kline, director of the Theodore Roosevelt Conservation Partnership Center for Agricultural and Private Lands, "There may have been some holdover funds for the programs but the agency said the fact that they have not been authorized by Congress means they are not authorized to spend money."

In addition, although the huge, multi-million acre Conservation Reserve Program (CRP) is still around, the department is not going to add acreage to it. "There will be no new sign-ups under CRP until Congress passes a new farm bill," Kline said.

That's in the short-term. If Congress doesn't pass a long-term bill or an extension of the old law when it returns to work in a lame-duck session November 13 the programs will be in even more trouble. Congress adjourned/recessed to campaign on September 21.

Without mentioning specifics, Secretary of Agriculture Tom Vilsack said some programs were already cut off and still others were due to run out of money "in the coming months." He blamed the House for the delay. "Without action by the House of Representatives on a multi-year Food, Farm and Jobs bill, rural communities are today being asked to shoulder additional burdens and additional uncertainty in a tough time," he said.

However, the House and Senate are nowhere near agreement on producing a short-term or long-term law.

The long-term legislation is

stuck in the House. A combination of conservative objections to the measure's price tag and liberal objections to cuts in child nutrition programs is preventing leaders from assembling enough votes to pass a bill.

Conservation programs would be deeply affected by each of these three separate proposals:

\* A Senate-passed bill (S 3240) that would extend most farm programs for five years, but would eliminate and trim some conservation programs. The Senate approved it June 21,

\* A House Agriculture Committee bill (6083) that would extend most farm programs for five years, but would make even deeper cuts in conservation spending than the Senate. Although the House committee approved the bill July 12, House leaders have been unable to muster the votes to bring it to the floor,

\* A disaster assistance program (HR 6233) that would cut conservation spending to pay for drought aid. The House approved the bill August 2 but Senate Democratic leaders refused to bring it up.

Conservationists oppose the last measure, the disaster relief bill, proposed by House Republicans because of the conservation program reduction. Among the conservation programs that are in line for cuts in the House extension bill are the Environmental Quality Incentives Program and a Conservation Stewardship Program.

As for the multi-year bills, overall the House would reduce farm spending by \$35 billion over the next 10 years, or \$12 billion more than the \$23 billion the Senate would cut out. The Obama administration has endorsed the Senate bill.

Here's some of what the Senate-passed and House committee-passed bills would do:

**Open Fields:** In the Senate bill Section 2503 is formally titled the Voluntary Public Access and Habitat

Incentive Program. The bill would extend the program for five fiscal years beginning with fiscal 2013 and provide \$40 million total over the five years.

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.

The House committee bill in Section 2503 would also extend the program for five years and provide \$30 million over that time. The House committee also asks for a status report within two years.

Among other things under the program the states provide rental payments to landowners as an incentive to open their lands to hunters, fishermen and other recreationists. The Farm Service Agency administers the program.

**Conservation Reserve Program:** The Senate and the House committee both extended this program that pays farmers not to cultivate marginal land. Farmers have enlisted millions of acres in the program through contracts that last from 10 to 15 years.

Both the Senate and the House would reduce the number of acres allowable in the program to 25 million, thus saving \$3 billion over 10 years. The cap now is 32 million acres.

**Rejected Senate amendments:** During its reconsideration of S 3240 Senate Agriculture Committee leaders refused to take up more than 200 amendments on the Senate floor including an outdoor-related amendment that would have added a stand-alone national forest recreation residence bill (S 1906) to the Farm Bill. The amendment would have established nine tiers of fees beginning at \$500 per year and increasing by \$500 increments to a top fee of \$4,500.

Senate leaders also refused to consider an amendment that would have forbidden the administration from issuing a new wetlands policy that would have required Section 404 permits for non-navigable waters.

## House endorses larger role for states in fed haze plans

The House approved legislation September 21 that would significantly reduce the federal government's authority to regulate haze pollutants that drift over national parks and large wilderness areas.

One provision in the legislation (HR 3049) would allow a state to revoke an EPA-imposed plan to reduce haze pollutants, as long as a state developed its own plan within two years.

A second provision would bar EPA from implementing any haze plan that would reduce coal production for power plants or reduce revenues from the plants on Indian lands in Arizona. That includes the Navajo Generating Station that environmentalists have long assailed for the haze it sends over wilderness areas and national parks.

Rep. Paul Gosar (R-Ariz.), a lead cosponsor of both provisions, said they would help insure continuing energy production from four coal-fired power plants in Arizona: the Navajo plant, the Coronado Generating Station, the Cholla Power Plant and the Apache Generating Station.

Gosar attacked EPA regs: "The overreaching regulations would effectively shut down this critical and unique plant (Navajo Generating). A closure would dramatically increase the cost of water and power for my constituents, and it would eliminate thousands of tribal and nontribal jobs - all for no discernible improvement in visibility."

The House approved the provisions as amendments to broader legislation (HR 3049) that would protect the coal industry from Interior Department and EPA regulations.

The National Parks Conservation Association (NPCA) said the main impact of the nationwide haze amendment, under lead sponsor Rick Berg (R-N.D.), would be to limit EPA's ability to correct state plans.

Said Mark Wenzler, vice president for climate and air quality programs for NPCA, "By preventing (EPA) from correcting legally-deficient state haze cleanup plans, the Berg amendment would ensure hazier skies for many years to come at America's most treasured national parks and wilderness areas. By allowing states to adopt inferior pollution controls on antiquated coal-fired power plants - or no controls at all - the Berg amendment would result in dirtier air that causes more asthma attacks, lung disease, and early death."

But Rep. James Lankford (R-Okla.) said the issue was not health but visibility and that's not as important. "What is this all about?" he said. "If you're dealing with visibility issues, you're dealing not with health issues specifically stated in the air quality - and all that happened with regional haze was this is not about health; this is about visibility."

The haze war focuses on Section 169 of the Clean Air Act that directs EPA to regulate visibility over Class I federal areas. They include 156 national parks and wilderness areas. The wilderness areas are those larger than 5,000 acres.

Under the law EPA has directed states to prepare state implementation plans (SIPs) to prevent regional haze from sullyng visibility over the Class I areas. However, EPA has set repeated deadlines and few states have completed SIPs. Under Section 169 of the act, if states don't complete SIPs by certain dates, EPA is to write federal implementation plans for them.

Western states are addressing the SIP requirement differently. Wyoming Gov. Matt Mead (R) is not pleased that EPA has disapproved a portion of the state's SIP. EPA told the state that its SIP does not meet Clean Air Act standards. Mead said the EPA plan is not only \$77 million more expensive than the Wyoming SIP, but also would provide little reduction in haze. Mead said that smoke from wildfires produces most haze over Class I areas.

But Colorado Gov. John

Hickenlooper (D) has submitted a SIP that EPA approved last month. The entire Colorado Congressional delegation endorsed the plan, including such EPA critics as Republican Rep. Doug Lamborn. He said, "This is a workable plan to protect the air in Colorado's national parks and wilderness areas."

### **NPCA has problems with DoI's solar program in Southwest**

A third party - environmentalists - is putting the squeeze on the Obama administration's solar development program on public lands.

The National Parks Conservation Association (NPCA) said September 18 that three major projects on BLM lands approved by the administration under an expedited review procedure could damage adjacent national parks.

NPCA said in a new [report](#) that an Amargosa Farm Road Project in Nevada would damage the Death Valley National Park landscape, and vistas from the park. It said the Ivanpah Solar Election Generating Station in California would harm wildlife migration into the Mojave National Preserve, and vistas. And it said the Desert Sunlight Solar Farm in California would harm wildlife migration and vistas from Joshua Tree National Park.

"In short," said NPCA, which has not filed lawsuits yet, "while there are great benefits to harnessing sunlight for electricity generation, these benefits come at a significant cost to desert resources."

The Bureau of Land Management's (BLM's) solar program is already under pressure from two other parties - the renewable energy industry that would accelerate the approval of new projects and the fossil fuels energy industry that would reduce and/or eliminate favors to the renewable energy industry.

The environmental group Western Watersheds Project posted the first notice to the administration that greens will not automatically support solar projects on public lands, even though

they prefer renewable energy to fossil fuels energy.

The project filed suit on Jan. 14, 2011, against the Ivanpah project, saying BLM's EIS and record of decision violated NEPA and the Endangered Species Act. In a lawsuit filed in U.S. District Court for the Central District of California the environmentalists said the project would impact migratory birds and could damage groundwater.

BLM approved the Ivanpah project on Oct. 7, 2010. It was one of 17 applications BLM processed before it developed a programmatic EIS on a national program to develop solar energy. The renewal energy projects BLM has approved - counting solar, wind and geothermal - since 2009 are [here](#).

BLM published the programmatic EIS October 24 that covers solar development in the West on 285,000 acres of solar energy zones. That is down from a previous level of 677,000 acres of solar zones.

The completion of the programmatic EIS should open the way for BLM to begin considering more than 100 solar applications that have built up over the last few years. The agency has been approving individual applications that were submitted before the EIS was begun in July 2009.

The final EIS identifies 17 solar energy zones in the States of Arizona, California, Colorado, Nevada, New Mexico and Utah. It also anticipates development in "variance zones" that would be designated by BLM managers from an additional 19 million acres of public lands in Arizona, California and Colorado.

But the National Parks Conservation Association, nominally an ally of the administration, recommended a half-dozen steps for BLM to take to insure national park resources are fully protected. Some of those BLM is apparently already taking, such as confining solar projects to solar energy zones.

But NPCA also called on BLM to

consult more closely with the Park Service, the Fish and Wildlife Service, state agencies, non-governmental organizations and other stakeholders in the approval process for individual projects.

NPCA offered this critique of the Ivanpah project: "Located in the Ivanpah Valley near Mojave National Preserve, this installation will destroy significant habitat for the threatened desert tortoise, potentially interfere with wildlife migration and habitat connectivity, and impair the scenic vistas from Mojave National Preserve, the third-largest national park site in the lower 48 states. These impacts will occur despite significant alterations to the initial project proposal to minimize the footprint of the facility and exclude lands containing rare plants."

## Notes

**ROW in three parks approved.** The Park Service October 1 approved an electrical transmission line through 4.3 miles of the Appalachian National Scenic Trail, the Delaware Water Gap National Recreation Area and the Middle Delaware National Scenic and Recreational River, the Interior Department announced October 2. The proposal from the PPL Electric Utilities Corp. would replace an existing electrical transmission line with a larger line, a broader right-of-way and taller towers. The Susquehanna-Roseland Transmission Line would beef up the electrical grid in the mid-Atlantic with a \$1.2 billion, 146-mile electricity transmission line. The ROW would extend from Berwick, Pa., to Roseland, N.J. The National Parks Conservation Association (NPCA) criticized the decision because of possible damage to resources in the parks and to vistas in the parks from the bigger, wider powerline. "America's national parks are not blank spots on the map conveniently set aside for future development projects like super-sized transmission lines," said Cinda Waldbuesser, Pennsylvania senior program manager for NPCA. "We can meet America's energy needs without sacrificing our national parks. We must ensure these national treasures are protected for our children and

grandchildren to enjoy." The Park Service decision is [here](#).

**Chimney Rock a monument.** After years of ineffectual debate in Congress over legislation to protect the Chimney Rock area in the San Juan National Forest, President Obama on his own September 21 designated it a national monument. The 4,276-acre Chimney Rock National Monument in Colorado is home to hundreds of archaeological ruins constructed by the Ancestral Pueblo People about 1,000 years ago. The monument includes the highest elevation ceremonial "great house" in the Southwest. The Presidential proclamation under authority of the Antiquities Act of 1906 directs the Forest Service to prepare a management plan and implementing regulations within three years. The national monument is the seventh to be managed by the Forest Service. The proclamation also directs the Forest Service to develop a transportation plan that limits all motorized and mechanized vehicle use to designated roads, except for emergency or authorized administrative purposes. And it directs the Forest Service to consult with the Interior Department. However, it bars the service from adopting Interior Department regulations for national parks and department-managed national monuments for Chimney Rock. The National Trust for Historic Preservation prepared a study last year that estimated the designation will produce \$1.2 million for the local economy each year. The land is located west of Pagosa Springs in southwest Colorado's Archuleta County.

**NPS board to meet next month.** The National Park Service Advisory Board will meet next November 28 and 29 at Fort Monroe, Va., with an ambitious agenda. The board will not only consider recommending the designation of 18 new historic and natural landmarks, it will also receive updates from Park Service officials on a number of programs. In addition NPS Director Jonathan Jarvis will address the board. Among other landmarks the board will consider are the Edmund Pettus Bridge in Dallas County, Ala., site of a major civil rights clash in 1865, and the Harriet Beecher Stowe House in Hartford,

Conn. Fort Monroe of course became a national monument on Nov. 1, 2011.

#### **Tahoe travel plan big issue.**

Powered recreation interests and conservationists are squaring off in federal court over a travel management plan for the Tahoe National Forest in northern California. The powered recreationists moved first, filing a lawsuit in July of this year against a September 2010 plan that, the recreationists say, removed 800 miles of trails from motorized uses. Conservationists moved second on October 3, asking the U.S. District Court for the Eastern District of California for permission to intervene in the lawsuit. The conservationists say the plan is fair because it still allows motorized vehicles on 2,000 miles of road, 385 miles of trails and 244 acres of play areas. The lawsuit, filed on behalf of Friends of Tahoe Forest Access and other groups, argues that the plan was illegal under the National Environmental Policy Act because it failed to assess the impact of the plan on the human environment. "In particular, the Forest Service failed to adequately consider the human toll that results from denying Californians and others the ability to continue cherished and family-friendly recreational activities that have been taking place for generations," says the lawsuit filed by the Pacific Legal Foundation. Said foundation attorney Brandon Middleton, "This was a bait and switch game. The Forest Service lulled people into complacency over the 2005 Travel Management Rule and said recreational enthusiasts had nothing to fear. But then, we find out that over 800 miles of roads or trails are going to be blocked off from traditional motorized recreational uses. In the end, less than 50 miles of formerly accessible trails have been left open for off-road motorized use." But Christopher Hudak of the law firm Earthjustice countered, "We already know that off-road vehicles destroy the vegetation, compact the soil, erode the stream beds, and threaten the wildlife in sensitive areas of the Tahoe National Forest. Now that the Forest Service has taken steps to reduce the damage, we want to make sure these basic protections remain in place." The

recreationists' lawsuit is [here](#) and the conservationists' request to intervene is [here](#).

#### **Two new refuges in New Mexico.**

The Interior Department dedicated two new wildlife refuges in New Mexico September 27, bringing to 560 the number of units in the National Wildlife Refuge System. One new refuge - the Valle De Oro in Albuquerque - will consist of an urban refuge within the city. The other refuge - Rio Mora National Wildlife Refuge - will be located near the community of Mora. The Albuquerque refuge was created through the acquisition of 390 acres of the Valley Gold Farms. The Rio Mora was made possible by the donation of 4,200 acres by the Thaw Charitable Trust. Secretary of Interior Ken Salazar presided over the two designations.

**BLM lands help economy.** The Bureau of Land Management (BLM) said September 27 that its lands created \$130 billion in economic activity in 2011 and more than 600,000 jobs. Most of that comes from energy minerals and hard minerals - \$126 billion. But BLM said recreation also produced \$7 billion. That doesn't exactly add up, but the report, *The BLM: A Sound Investment for America*, is available [here](#). Acting BLM Director said the recreational activities provided not only money but aesthetic and leisure benefits. The Department of Agriculture said July 26 that the national forests contributed to more than 200,000 jobs in 2011. And the National Parks Conservation Association says the national parks contributed \$31 billion to the economy in 2010 and 258,000 jobs.

#### **Court backs ORV ban near Tellico.**

A federal judge September 19 upheld a Forest Service decision limiting off-road vehicles (ORVs) in the Nantahala National Forest to protect the Tellico River. Judge Martin Reidinger in the U.S. District Court for the Western District of North Carolina said the forest prepared an adequate environmental analysis (EA) before banning ORVs near the river. Reidinger summarized the damage, "Contained within both the Predecisional Environmental Assessment and the EA are numerous

citations to scientific data showing that the use of off-road vehicles within the System was causing and would continue to cause considerable adverse effects on soil, trout, the Tellico River and the areas within the System. Those effects included the erosion of 75,000 tons of soil, visible sediment reaching the river and streams, high turbidity, and decreased trout reproduction." Said Michael Smith with the North Carolina Council of Trout Unlimited, "The facts were clear - the Forest Service simply couldn't maintain the trails to minimum standards. The Forest Service didn't have the massive funding required to reconstruct eroded trails and maintain them permanently. Closure was the only affordable option to protect water quality." The decision, *Southern Four Wheel Drive Association et al v. Forest Service (Civil Case No. 2:10cv15)* is available [here](#).

#### **Buddhist stupa removed from park.**

In the face of persistent criticism from the Public Employees for Environmental Responsibility (PEER), the Park Service has removed a Buddhist structure called a stupa from Petroglyph National Monument in New Mexico. The Buddhist community has agreed to move the structure to a site 15 miles from the park. The Park Service inadvertently acquired the 10-foot structure in 1990 while purchasing lands for Petroglyph. Two years ago PEER objected to the religious display in a national park. PEER said it still objects to bronze plaques with Biblical verses at Grand Canyon National Park and some Christian books sold by Park Service bookstores.

## **Conference Calendar**

### OCTOBER

8-12. **Alliance of National heritage Areas** fall meeting in Burlington, Vt. Contact: Alliance of National Heritage Areas, 1101 30th Street, N.W., Suite 500, Washington, D.C. 20007. (202) 625-4393. <http://www.nationalheritageareas.us/>

9-11. **Sportfishing Summit** in Hilton Head, S.C.. Contact: American Sportfishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314.

(703) 519-9691. <http://www.asafishing.org>.

13-16. **The Wildlife Society Annual Meeting** in Snowbird, Utah. Contact: The Wildlife Society, 5410 Grosvenor Lane, Bethesda, MD 20814-2197. (301) 897-9770. <http://www.wildlife.org>.

16-18. **National Recreation and Park Association** congress and exposition in Anaheim, Calif. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. <http://www.nrpa.org>.

31-Nov. 3. The **National Trust for Historic Preservation Annual Conference** in Spokane, Wash. Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, DC 20036. (202) 588-6100. <http://www.nationaltrust.org>.

### NOVEMBER

7-9. **National Forest Recreation Association 64<sup>th</sup> Annual Conference and Trade Show** at the Silver Legacy Hotel in Reno, Nevada. Information will be posted on the NFRA website [nfra.org](http://nfra.org) or can be obtained by contact the NFRA Office at: 559-564-2365.

27-Dec. 1. **National League of Cities Annual Congress of Cities** in Boston, Mass. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. <http://www.nlc.org>.

30-Dec. 2. **Western Governors' Association Winter Meeting**. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202-5114. (303) 623-9378. <http://www.westgov.org>.

30-Dec. 3. **Council of State Governments State Trends Forum** in Austin, Texas. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. <http://www.csg.org>.

### DECEMBER

4-6. **America Outdoors Marketing and Management** Conference in Daytona Beach, Fla. Contact: <http://www.americaoutdoors.org/>.