

FEDERAL PARKS & RECREATION BULLETIN #9: October 4, 2010

Dear Subscriber:

This bulletin from Federal Parks & Recreation newsletter reports on the following:

- * SHORT-TERM SPENDING BILL KEEPS GOVERNMENT GOING INTO DECEMBER
- * LWCF GUARANTEE HELD OVER UNTIL LAME-DUCK SESSION
- * NEW FS CABIN FEE BILL MAY RESOLVE BUDGET PROBLEM

NOTE: This bulletin is a supplement to your regular edition of Federal Parks & Recreation. It is NOT your regular issue. The next issue will be published October 8.

The Editors

CONGRESS EXTENDS FISCAL 2010 APPROPRIATIONS BILL FOR TWO MONTHS

President Obama signed a temporary fiscal year 2011 spending bill (PL 111-242) into law September 30 that will keep all federal agencies and programs in money through December 3. The law is relatively clean with few controversial instructions to agencies.

Because the House and Senate have been unable to complete individual spending bills, they were forced to move the temporary spending bill. The Senate passed it September 29 by a 69-30 vote and the House approved it September 30 by a 288-194 vote, just before fiscal 2011 began October 1.

The measure includes the four main outdoors appropriations bills: Interior, Energy and Water, Agriculture and Transportation. PL 111-242 maintains spending at fiscal 2010 levels.

The game plan on paper calls for the two houses to complete individual appropriations bills in a lame-duck session that is scheduled to begin November 15.

But because of political divisions, individual spending bills are almost certainly out of the picture. More likely Congress will attempt to move a jumbo, stripped-down appropriations bill, with as many as a dozen spending bills wrapped inside.

If Congress can't put together such an omnibus money bill, as is widely predicted, it may simply extend fiscal 2010 spending levels throughout the next fiscal year.

Here's the status of four main outdoor appropriations bills:

INTERIOR: The House subcommittee on Interior appropriations approved a version of this bill July 22. The Senate Appropriations Committee has not begun work on a bill yet. If and when the full House Appropriations Committee, the House, the Senate or all of the above do develop a fiscal 2011 Interior money bill, they will be operating under a spending cap of between \$32.2 billion and \$32.3 billion, about the same as the \$32.2 billion total of fiscal 2010, not counting stimulus money.

The House Appropriations Committee is attempting to keep secret the numbers in the subcommittee bill, but a few have trickled out, such as an increase in national park operations of \$35.3 million, or \$2.297 billion compared to a fiscal 2010 appropriation of \$2.262 billion; an increase of \$8 million for national forest recreation, from \$285.1 million in fiscal 2010 to \$293.2 million; an increase of \$106 million for the federal side of the Land and Water Conservation Fund (LWCF), or \$384.1 million compared to a fiscal 2010 appropriation of \$277.9 million; and an increase of \$10 million for the state side of LWCF, or \$50 million compared to a fiscal 2010 appropriation of \$40 million.

ENERGY AND WATER: The full Senate Appropriations Committee approved this bill (S 3635) July 22 that finances the Corps of Engineers and the

Bureau of Reclamation. The House subcommittee on Energy and Water Appropriations approved a counterpart bill (no number) July 15.

TRANSPORTATION: The full Senate Appropriations Committee approved this bill (S 3644) July 22 that pays for highway and transit programs. The full House approved its counterpart bill (HR 5850) on July 29.

AGRICULTURE: The Senate subcommittee on Agriculture Appropriations approved this bill (no number) July 15 and the House Agriculture Committee July 27 postponed a scheduled mark-up of a subcommittee-passed bill.

LWCF GUARANTEE NOT GUARANTEED IN LAME-DUCK SESSION

The Senate last month failed to act on legislation to provide full funding for the Land and Water Conservation Fund (LWCF), deferring the legislation until a lame-duck session scheduled to begin November 15.

The LWCF provision is attached to an energy bill (S 3663) that responds to the Gulf oil spill. The sponsor of the bill, Sen. Harry Reid (D-Nev.), was unable to line up enough support to pass S 3663 last month but intends to try again next month.

Opponents of the legislation are already alerting their allies to ask their senators to vote against S 3663. "Nothing is more dangerous to you than a Lame Duck session," the American Land Rights Association (ALRA) told its members September 29. "That is where Congressmen and Senators who have either lost their elections or have retired still come back and vote."

ALRA said property rights is the bottom line issue. "If the Trust Fund passes Congress, you will never escape the fear of Eminent Domain or condemnation of private property," said the ALRA alert. "It will always be hanging over your head."

Despite the criticism, the LWCF guarantee is alive in two places. First, the Senate could still move S 3663. Second, the House July 30 approved a more comprehensive energy bill (HR 3534) that would guarantee money for LWCF for the next 30 years. So if the Senate approves any kind of energy bill, at some point this fall a House-Senate conference committee could patch together a final bill with LWCF money.

The House and Senate LWCF provisions are quite different. The House would simply guarantee \$900 million per year for 30 years. The Senate would begin with full funding and then change the guarantee in out-years.

THE HOUSE BILL: The House measure makes the guarantee clear. It says: "Permanent Funding - Of the moneys covered into the fund, \$900,000,000 shall be available each fiscal year for expenditure for the purposes of this Act without further appropriation." Appropriators could still allocate money to specific projects within the cap.

The House would also set aside at least 1.5 percent of the money to provide access to public lands managed by the Interior Department for "hunting, fishing, and other recreational purposes through easements, rights-of-way, or fee title acquisitions, from willing sellers."

THE SENATE BILL: The Senate measure is more complex than the House bill. After five years of guaranteed full funding S 3663 would guarantee only \$500 million in fiscal 2016. It would then remove the guarantee from fiscal years 2017 through 2020, subjecting LWCF to appropriations. But beginning in fiscal 2021 it would again guarantee \$500 million per year. The bill is convoluted to comply with Senate budget rules and to insure full funding in the early years, a Senate Energy Committee staff member said.

FISCAL 2011 APPROPRIATION: In a closely-related development the House subcommittee on Interior appropriations July 22 approved a \$518 million appropriation for LWCF for fiscal year 2011, or \$68 million more than a fiscal 2010 appropriation of \$450 million. (The subcommittee number is \$72 million less than the administration request of \$590 million, largely because it would not fund a \$42 million acquisition by the Bureau of Land Management

to store excess wild horses in the Mid-West and East.) Out of the \$518 million for LWCF, \$55 million would go to the state side of LWCF.

NEW FS CABIN FEE BILL MAY RESOLVE BUDGET PROBLEM

Four western senators September 29 introduced legislation (S 3929) that would establish a new fee schedule for cabin owners in national forests that may be "deficit neutral."

A counterpart House bill (HR 4888) that is waiting floor action was dealt a setback last month when the Congressional Budget Office (CBO) said it would increase government spending by \$145 million over the next 10 years.

The western senators, led by Sen. Jon Tester (D-Mont.), made two crucial changes to the House bill that they believe will secure a deficit neutral score from CBO.

One change would save \$70 million by deleting a House provision that would allocate half the fee revenue to the Forest Service for administrative costs.

"We have known from the beginning the probability that we would drop that provision," said Aubrey King, a lobbyist for the National Association of Gateway Communities.

The other change would revise the fee schedule that is the foundation of the new bill. Both bills would substitute predictable tiers of fees for the existing system of periodic appraisals. The House measure, as approved by the House Natural Resources Committee July 22, would establish five levels of flat fees based on the value of cabins.

The Senate bill would revise that to produce more revenue by establishing nine tiers of fees.

King said that his association has been meeting with Congressional sponsors and CBO and he believes the bill responds to CBO's objections. However, at press time CBO had not officially signed off on the new version.

How far the bill goes from here depends on whether Congressional Democratic leaders attempt to assemble an omnibus lands bill in a lame-duck session beginning November 15. At this point Congressional leaders indicated they will concentrate on passing bills dealing with appropriations, taxes and international affairs. That doesn't leave much room for a lands bill.

Sill, said King, "My own thought is it probably will have to be done in an omnibus. I don't think a stand-alone will make it. I think it can get through the House as a stand-alone, but getting through both houses in a lame duck won't be easy."

One great strength of the legislation is its bipartisan sponsorship. Two Democrats – Tester and Sen. Max Baucus (Mont.) – introduced the Senate bill along with two Republicans – Sens. John Barrasso (Colo.) and James E. Risch (Idaho.)

The House sponsorship is also bipartisan, led by House Natural Resources Committee ranking Republican Doc Hastings (Wash.) The 28 other sponsors include numerous House Natural Resources Committee Democrats.

In its initial September 16 report CBO said the version of a bill passed by the House Natural Resources Committee would increase government spending by \$145 million over the next 10 years.

"Based on information from the Forest Service, CBO estimates that implementing the legislation would increase direct spending by \$145 million over the 2011-2020 period; therefore, pay-as-you-go procedures apply," said CBO.

Under the House bill Tier one cabin owners would pay a fee of \$500 per year, tier two \$1,000, tier three \$2,000, tier 4 \$3,000 and tier 5 \$4,000. The legislation would also establish a flat transfer fee of \$1,000 plus five percent for sales between \$250,000 and \$500,000 and 10 percent on sale of more than \$500,000.

The Senate bill would establish nine tiers beginning at \$500 and increasing by \$500 increments to \$4,500. The Forest Service would have three years to complete appraisals that would assign cabins to one of the nine tiers.

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