

Federal Parks & Recreation

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Senate may be poised to make a run at renewal of LWCF

Senate Finance Committee Chairman Ron Wyden (D-Ore.) said September 17 he will introduce two bills "shortly" to keep the Land and Water Conservation Fund (LWCF) going.

One bill would extend LWCF for one year to give Congress time to pass a second, more comprehensive public lands policy bill that would reauthorize the program for a longer period. Congress is now on a break until after the November 4 elections, so Wyden probably won't be able to introduce any legislation until mid-November.

Said Wyden in a Senate floor speech, "I plan to introduce two bills that would help to secure the future of the Land and Water Conservation Fund. The first bill would provide a 1-year extension of the Land and Water Conservation Fund, and the second bill – that I hope to be able to introduce very shortly – would make it permanent because I believe that dedicated, stable funding will ensure our public lands continue to be preserved and accessible to support those recreationists of the future, the conservationists of the future, and the local economic leaders of the future who will prosper as a result of those investments."

An aide to Wyden said he didn't know when the senator intended to introduce the bills. But he told *FPR*, "He hopes to do it this year. He has mentioned numerous times he was working on legislation to extend LWCF and the Secure Rural Schools and the payments-in-lieu of taxes (PILT) programs."

While Wyden chairs the Senate Finance Committee, which governs taxes and other money matters, he hasn't decided yet if he will develop

a bill there or in the Senate Energy Committee or try to attach a rider to an appropriations bill, said spokesman Keith Chu.

Wyden cosponsored legislation last year (S 338) that would guarantee \$900 million per year for LWCF permanently. Asked if Wyden would use S 338 in its present form as the LWCF portion of the public lands bill, Chu said, "I would not assume that."

Wyden announced his plans in a floor speech that recognized the 50th anniversary of LWCF, which under existing law is due to expire at the end of fiscal year 2015 on Oct. 1, 2015.

Crucial to the success of any legislation is Republican support, which Wyden may have. As Sen. Mark Udall (D-Colo.) said on the Senate floor the same day, "LWCF is a victim of the uncertainty of the annual appropriations cycle, which leaves a huge unmet need in Colorado and across our country. That is why I have been fighting — joined by many of my colleagues on both sides of the aisle — for full, permanent funding of the Land and Water Conservation Fund. I am very pleased to be working with (Wyden, Sen. Martin Heinrich (D-N.M.)), and others on a fix that would fulfill the LWCF promise."

To that end Wyden and Udall were joined by four Republican senators September 17 in introducing a Senate resolution acknowledging the 50th anniversary of the act. The four Republicans are Sen. Jeff Sessions (Ala.), Lamar Alexander (Tenn.), Rob Portman (Ohio) and Richard Burr (N.C.)

A package of public lands legislation would presumably gain strength because of the addition of the Secure Rural Schools and PILT provisions, but those programs would also increase the cost of a bill. The Obama administration has requested \$442 million in fiscal 2015 for PILT and \$251 million for Secure Rural Schools.

Meanwhile, the Obama administration continues to lead the campaign for renewal of LWCF. On September 3 Secretary of Interior Sally

Jewell marked the 50th Anniversary of the program and the 50th anniversary of the sister Wilderness Act at a ceremony in New Jersey. Three New Jersey House members joined her — Reps. Rodney Frelinghuysen (R-N.J.), Rush Holt (D-N.J.) and Leonard Lance (R-N.J.)

Jewell said the LWCF law authorizes the expenditure of up to \$900 million per year from offshore oil and gas revenues, but Congress seldom appropriates a fraction of that much. She said at the event, "\$16 billion has been invested, \$19 billion has not been invested because it hasn't been appropriated by Congress, but it's been authorized."

Although a significant number of senators from both sides of the aisle support LWCF and have endorsed its renewal, the political outlook for a new, stronger law is a bit cloudy.

By itself LWCF stands little chance in the House, where western Republican critics of the program hold sway in the House Natural Resources Committee. However, those LWCF critics, such as House Natural Resources Committee Chairman Doc Hastings (R-Wash.), are strong supporters of the Secure Rural Schools and PILT programs.

Perhaps LWCF's best opportunity lies in a possible package of legislation, and then after the November 4 elections. That's the package Wyden, Udall et al. are now working on.

Former Sen. Max Baucus (D-Mont.) introduced stand-alone legislation (S 338) last year that would also extend LWCF at \$900 million per year in *guaranteed* money. The money would continue to come from offshore oil and gas revenues. But, again, Wyden's aide warned that a new bill might not follow the lead of S 338.

Meanwhile, the House continues to hammer LWCF in annual appropriations bills. On July 15 the House Appropriations Committee approved a fiscal year 2015 Interior and Related Agencies appropriations bill (HR 5171) that would reduce federal land acquisition by \$138 million, from \$187

million in fiscal 2014 to \$49 million in fiscal 2015.

Senate appropriators are a little more generous. Leaders of the Senate subcommittee on Interior appropriations August 1 proposed a draft bill that would include \$137 million more for federal land acquisition than did the House committee, \$186 million to \$49 million.

The Senate subcommittee leaders recommended \$48 million for the state side of LWCF, or \$2 million more than the \$46 million the House committee approved in HR 5171.

And as we have reported, some supporters of the Park Service worry that Jewell and company are giving so much emphasis to renewal of LWCF that they are neglecting the Park Service's 2016 Centennial.

Temporary CR enacted; omnibus money bill in lame-duck

Senate Appropriations Committee Chair Barbara Mikulski (D-Md.) made it official September 18 just as Congress was wrapping up a temporary funding bill - Congress will put together one jumbo appropriations bill in a lame-duck session.

Rather than attempt to write individual spending bills, Senate appropriators will lump all 12 appropriations bill into one jumbo measure. That matters because it will limit the number and kinds of riders and instructions appropriators can put in a bill.

Meanwhile, Congress September 18 wrapped up the temporary continuing resolution (CR) that appropriates money through December 11. President Obama signed the resolution into law September 19 as PL 113-164.

Said Mikulski, "Our goal for this continuing funding resolution is to lay the groundwork for an omnibus funding bill in December that will include all 12 appropriations bills."

The temporary continuing resolution (HJ Res 124) is needed because the House and Senate were unable to agree on the 12 annual appropriations bills before fiscal year 2015 begins nationwide October 1.

The CR does contain two modest park and recreation provisions. It extends the life of the federal lands recreation fee law through Dec. 8, 2016. The Federal Lands Recreation Enhancements Act of 2004 (FLREA) was scheduled to expire on Dec. 8, 2015.

The extension in the CR theoretically gives Congress time to write a new law to carry recreation fees through December 2020. That is what a fee bill (HR 5204) approved by the House Natural Resources Committee would do. (See related article page 6.)

The CR also includes a provision to shut off money for a Dwight D. Eisenhower Memorial Commission. While House Republicans want to do that because they object to the design of a proposed memorial, the Senate has generally resisted. (See related article page 8.)

If and when House and Senate appropriators do sit down this fall to negotiate the details of a fiscal year 2015 Interior and Related Agencies appropriations bill, they will begin far apart on two crucial issues - emergency fire-fighting money and payments-in-lieu of taxes (PILT) money.

The different approaches mean the Senate would set aside more than \$900 million for other programs than the House.

The leaders of the Senate subcommittee on Interior and Related Agencies August 1 published a discussion draft of a fiscal year 2015 spending bill that differs on fire and PILT with a bill (HR 5171) the House Appropriations Committee approved July 15. And the two differ substantially on conservation spending, particularly for the Land and Water Conservation Fund (LWCF).

The Senate drafters - Senate subcommittee on Interior Chairman Jack

Reed (D-R.I.) and ranking subcommittee Republican Lisa Murkowski (R-Alaska) - did not include in their draft \$470 million to pay back fiscal 2014 fire fighting costs. The House subcommittee did include the \$470 million.

Not only did Reed and Murkowski recommend the fiscal 2014 emergency fire payback (now grown to \$615 million from the original \$470 million), they also included a rider that in the future would transfer emergency fire-fighting expenses out of appropriations bills and into a disaster-funding account.

As for PILT the Senate draft does not include money for the program in fiscal 2015, again unlike the House Appropriations Committee. The House panel would extend PILT by a year through Sept. 30, 2015, and put up \$442 million for it.

With more money available in the senators' draft in fiscal 2015 than the House subcommittee, Reed and Murkowski would increase allocations to conservation programs above levels approved by the House panel.

For instance the Senate subcommittee proposed \$137 million more for federal land acquisition than did the House committee, \$186 million to \$49 million.

For the state side of LWCF Reed and Murkowski's draft recommends \$48 million, the same as for fiscal 2014 and \$2 million more than the \$46 million the House committee approved in HR 5171.

Three other bills: In addition to the Interior and Related Agencies bill Congress has failed to move these other outdoor-related measures:

ENERGY AND WATER: The House approved its bill (HR 4923) July 10 and included a provision that would bar implementation of a June 2 proposed Obama administration rule on waters that should be subject to Section 404 wetland permits. The administration proposal would broaden substantially the kinds of water bodies subject to the permit requirement. No Senate bill has begun to move yet.

TRANSPORTATION: The House approved its bill (HR 4575) June 10 that would bar the use of regional grant money called TIGER for recreation and trails projects. The Senate Appropriations Committee approved its version of a bill (S 2438) June 5 without the trails limitation.

AGRICULTURE: The House Appropriations Committee approved its bill (HR 4800) June 4 and the Senate Appropriations Committee approved its bill (S 2389) May 22. Neither bill has progressed beyond that.

Centennial: Like the Republican-dominated House Appropriations Committee the senators recommended extra money for the Park Service in anticipation of its Centennial in 2016, as requested by the Obama administration.

However, the House committee approved \$5 million more - \$30 million for NPS operations and \$10 million for matching endowment grants compared to the senators' \$25 million for NPS operations and \$10 million for endowments.

In addition to the appropriations the administration asked for authorizing committees to put up between more than \$600 million in new money for the Park Service Centennial.

Riders: Sens. Reed and Murkowski did not include in their discussion draft a number of riders approved by the House Appropriations Committee in HR 5171.

The senators excluded from their bill House riders that would: forbid EPA from completing a proposed June 2 rule that would reduce carbon emissions from existing power plants, a plan that environmentalists say would be a boon to the national parks; forbid EPA from completing a proposed May 29 rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act; forbid any federal agency from attempting to transfer water rights to the federal government on renewal of a permit; and block implementation of an administration National Ocean Policy.

However, the subcommittee leaders did include one rider not in the House bill - designation of a Blackstone River Valley National Heritage Area in Rhode Island. Subcommittee chairman Jack Reed is from Rhode Island.

Some numbers: The following numbers compare the Senate subcommittee recommendations for fiscal 2015 with the House committee's HR 5171 and fiscal 2014.

LWCF FEDERAL: In total the senators recommended \$186 million for federal land acquisition, compared to \$49 million by the House committee and \$187 million in a fiscal 2014 appropriations law.

LWCF STATE: The senators recommended \$48 million, compared to \$46 million by the House committee and \$48 million in the fiscal 2014 appropriations law.

PARK SERVICE OPERATIONS: The senators recommended \$2.279 billion, compared to \$2.269 billion by the House committee and \$2.237 billion in fiscal 2014.

PARK SERVICE RECREATION AND PRESERVATION: The senators recommended \$63.1 million, compared to \$52 million by the House committee and \$52 million in fiscal 2014. (The big difference lies in National Heritage Area spending, a subset of rec and pres, as follows.)

NATIONAL HERITAGE AREAS: The senators recommended \$20.3 million, compared to \$9.2 million by the House committee and \$18.4 million in the fiscal 2014 appropriation.

Said explanatory notes accompanying the Senate draft, "The recommendation once again emphatically rejects the administration's proposal to reduce funding for national heritage areas. This proposed funding reduction would have a particularly acute impact since the Service is in the process of approving management plans for newer areas which allow them access to additional funding to implement their restoration and recreation programs." The administration had recommended

the \$9.2 million favored by the House committee.

PARK SERVICE CONSTRUCTION: The senators recommended \$138 million, compared to \$138 million by the House committee and \$138 million in fiscal 2014.

PARK SERVICE HISTORIC PRESERVATION: The senators recommended \$66.4 million, compared to \$56 million by the House committee and \$56 million in fiscal 2014.

STATE WILDLIFE CONSERVATION GRANTS: The senators recommended \$58.7 million, compared to \$58.7 million by the House committee and \$58.7 million in fiscal 2014.

NATIONAL FOREST SYSTEM: The senators recommended \$1.464 billion, compared to \$1.497 billion by the House committee and \$1.497 billion in fiscal 2014.

NATIONAL FOREST RECREATION: The senators recommended \$259 million, compared to \$263.9 million by the House committee and \$261.7 in fiscal 2014.

NATIONAL FOREST TRAILS MAINTENANCE AND CONSTRUCTION: The senators recommended \$77.5 million, compared to \$86.8 million in the House committee bill and \$75 million in fiscal 2014.

BLM RESOURCE MANAGEMENT: The senators recommended \$957 million, compared to \$957 million by the House committee and \$957 million in fiscal 2014.

BLM RECREATION: The senators recommended \$68.5 million, compared to \$63.9 million by the House committee and \$66.9 million in fiscal 2014.

BLM LANDSCAPE SYSTEM MANAGEMENT: The senators recommended \$34 million, compared to \$30.8 million by the House committee and \$31.8 million in fiscal 2014.

WILDLIFE REFUGE MANAGEMENT: The senators recommended \$475 million, compared to \$477 million by the House committee and \$477 million in FY 2014.

House committee tries one more time on cabin fee bill

The House Natural Resources Committee September 18 approved for the third time in this Congress legislation that would revise national forest cabin fees to the benefit of cabin owners.

The committee keeps revising the legislation to address Congressional Budget Office (CBO) analyses that estimate the legislation would increase federal spending over the ten-year life of the bill. That is because the Forest Service would take in less revenue than from the existing fee structure.

Aubrey King, Washington representative of the National Forest Homeowners Association, said the newest iteration of a bill (HR 5476) reduces the net loss to the government by increasing each annual cabin fee by \$50 per year. That should accommodate CBO's most recent estimated of a \$5 million cost over 10 years. There are approximately 14,000 recreation residences in the National Forest System.

"To clear the gap we have added \$50 to each level (of 11 levels in the bill) of fees over 10 years," he said. "We have been assured by CBO that that would do the job. The bill would actually be revenue positive."

There is a catch, said King. The CBO estimate is over the 10-year life of the bill. However, Congress occasionally enforces something called a one, five, ten rule that would require a bill to be revenue positive in the first year, over five years and again over ten years.

"According to CBO there would be a \$6 million gap in year one," said King. "We're going to have overcome that or hope that sometimes there is latitude in how rigorously Congress enforces the rule."

Both the House Natural Resources Committee and the Senate Energy Committee have been trying for years to give homeowners relief from the

fees charged by the Forest Service for private cabins within national forests.

HR 5476 would replace an existing law - the Cabin User Fee Fairness Act of 2000. It bases fees on Forest Service appraisals set at five percent of the market value. In 2007 the Forest Service began reappraising cabins, and, because some cabins had not been appraised for as much as 30 years, the appraisals went through the roof.

The House Natural Resources Committee first approved a cabin fee bill (HR 1159) March 20, 2013, by voice vote that would have established 10 tiers of fees running from \$500 to \$5,000. The committee approved a second bill (HR 4873) on June 19 with 11 tiers.

Now it has approved a third cabin fee bill (HR 5476) with the 11 tiers, but with an extra \$50 per cabin per tier. The fees would run from \$600 up to \$5,600.

The Senate Energy Committee approved its bill (S 1341) on Dec. 19, 2013. that would also establish 11 tiers of fees based on cabin values beginning at \$500 and going up to \$5,500. But CBO said that legislation would cost the government \$71 million over ten years.

Rep. Doc Hastings (R-Wash.) is the lead sponsor of the House bill. Sen. Jon Tester (D-Mont.) is the lead Senate sponsor. Both measures enjoy broad bipartisan support.

Cabin fee legislation doesn't receive the highest of priorities from CBO. After the House committee approved its June 19 bill, HR 4873, CBO didn't complete an analysis for almost three months on September 12.

FLREA extended; loose ends remain on long-term bill

In passing a temporary continuing resolution (CR) last week to keep the government in money through December 11, Congress also extended the life of the federal lands recreation fee law through Dec. 8, 2016.

The Federal Lands Recreation Enhancements Act of 2004 (FLREA) was scheduled to expire on Dec. 8, 2015.

The extension provision in the CR (PL 113-164 of September 19)) theoretically gives Congress time to write a new law to carry recreation fees through December 2020. That is what a fee bill (HR 5204) approved by the House Natural Resources Committee would do.

What happens next to HR 5204, approved July 30 by the committee, is not clear. The measure normally would go directly to the House floor.

Some critics fear the House will insert HR 5204 as a rider in a full fiscal year 2015 Interior and Related Agencies bill when Congress goes to work on a full-year appropriations bill in a lame-duck session.

Besides that the House Natural Resources Committee has several loose ends to tie up.

First and foremost the Obama administration is expected to criticize, if not oppose, HR 5204 because the measure would allegedly usurp agency authority to assess fees. The bill would require Congressional approval of any individual area fee increases.

Also unresolved are discounts for senior citizens age 62 or older. For \$10 now seniors can buy a lifetime America The Beautiful Pass into all national parks and other land management agency sites. The standard America the Beautiful fee is \$80 per year.

Some outdoor policy players have suggested a \$40 lifetime pass for seniors, others have suggested an increase in the age to begin the pass, and others have suggested just giving seniors a simple percentage discount each year.

HR 5204 punts on the issue, calling instead for a study by the Departments of Interior and Agriculture. We understand that both Republican and Democratic members of the committee are reluctant to give agencies carte blanche to increase fees, for fear they

- the Congressmen - will be charged with increasing taxes.

Third, there is some unease about a provision that would return 90 percent of collected fees to a collecting site, instead of the 80 percent now. The fear there is that the big parks that collect the lion's share of fees will contribute less to sites that collect little if any fee revenues.

Finally, the committee bill does not include the Corps of Engineers despite general agreement among interest groups and politicians that the Corps should be part of the program.

The committee did clear up a concern of outfitters in an early committee draft bill that could have been interpreted as requiring holders of special recreation permits to pay broad federal maintenance costs. The debated provision would do that by levying a cost recovery charge against each permit. However, HR 5204 deleted most of the controversial cost recovery provisions.

David L. Brown, executive director of the America Outdoors Association, told us last week, "Our concerns about the outfitted public getting stuck with all the recreation infrastructure maintenance costs were resolved with the mark-up of HR 5204. The bill is greatly improved over the draft and provides some excellent streamlining opportunities to lower the costs of processing permits, as well. We are fully supportive of its passage in this session."

HR 5204 has another, unresolved problem - opposition from backcountry users. Kitty Benzar, president of the Western Slope No-Fee Coalition, said requirements in the bill for the two standard fees (day use and amenity) would be less rigorous than under existing law.

(Benzar says she has no quarrel with entrance fees to major federal sites, such as national parks.)

However, bill supporters note the provision would require Congressional

approval of any fee increases.

For now Benzar was celebrating because Congress did not include the text of HR 5204 as a rider to the temporary spending bill (PL 113-164). But, she warned the coalition's members, "HR 5204 will be back on the table when congress returns after the election, so we are not done yet." Congress did include the one-year extension of FLREA in the law.

Background: FLREA, as enacted on Dec. 8, 2004, as PL 108-447, Section 804, was only good for 10 years. An interim appropriations law (PL 113-46 of Oct. 16, 2013) extended it through Dec. 8, 2015.

PL 113-164 extends FLREA through December 2016. FLREA produces about \$270 million per year in fee revenues and most of the money is used to improve recreation facilities.

The Park Service reaps from fees 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.

Eisenhower Memorial dispute shows no signs of ending

The hand-to-hand combat over a design for a Dwight D. Eisenhower Memorial on the Washington, D.C., Mall continues unabated.

The Eisenhower Memorial Commission had scheduled a vote on two new design alternatives (one with controversial tapestries and one without) for September 17 (PL 113-164), but a quorum did not show. A vote is now scheduled for October 2.

Meanwhile, Congress continues to attack the commission itself and the design from architect Frank Gehry. In

a temporary spending resolution that it approved September 18 Congress shut off federal money for the commission.

More explicitly on July 30 the House Natural Resources Committee approved legislation (HR 5203) that would terminate the existing 12-member commission and staff and replace them all. The committee approved HR 5203 by unanimous consent.

To quiet complaints from the Eisenhower family Gehry earlier this month modified his design by removing two large tapestries and some columns. But Gehry would retain a large tapestry as a backdrop for the memorial portraying Eisenhower as a boy.

And the Eisenhower family is not ready to accept that large tapestry. It wrote the commission last week urging the commission to approve the "core of the Gehry design without any tapestries or columns."

At the September 17 meeting of the commission the staff presented two designs for a vote - the modified Gehry design and a design without any tapestries or columns.

According to the Obama administration's fiscal year 2015 budget request, the Commission is currently estimating that the total construction cost of the memorial at about \$100 million. Congress has already appropriated about \$44 million for design and construction of the memorial and about \$65 million total. Other estimates put the total cost at \$142 million.

The commission itself receives a federal stipend; in fiscal 2014 it was \$1 million. However, Congress on September 18 approved a continuing resolution (PL 113-164) for early fiscal 2015 that would discontinue that stipend, at least temporarily.

On July 15 the House Appropriations Committee approved a full-year fiscal 2015 appropriations bill (HR 5171) that would put up no money for the commission. However, the leaders of the Senate subcommittee on Interior

appropriations August 1 published a draft bill that would appropriate \$1 million for the commission.

More substantively, the House Natural Resources Committee July 25 published a report that sharply criticized the Gehry design. The report faulted the design for the tapestries that it says violates design standards set by the National Capital Parks Commission (NCPC).

The report says, "The NCPC found the tapestry proposal most problematic in that it adhered to only two of the design principles. NCPC staff commented that the tapestries 'read more like an extension of the street wall similar to what would occur if a building was constructed' and that the design 'turns its back on the surrounding precinct . . . rather than creating a common space which the surrounding buildings help define.'"

The design was approved on July 18, 2013, by the U.S. Commission of Fine Arts. However, on April 3 the NCPC disapproved the design, objecting in particular to the tapestries.

To move forward the proposed \$142 million memorial must gain approval from all the commissioners and obtain money from Congress.

The Eisenhower Memorial Commission was established by Congress in 1999. It consists of 12 members including four member of the U.S. Senate and four members of the House. Commission Chairman Rocco Siciliano, a World War II combat veteran, is also chairman of the Eisenhower World Affairs Institute.

Feds take to court five ATV riders in Utah for trespass

The U.S. Attorney in Utah filed charges September 17 against five men for leading an all-terrain vehicle (ATV) ride through closed federal land in Utah in May.

In the ride, which captured national attention, as many as 50 ATV riders on May 10 drove into an off-

limits area managed by the Bureau of Land Management (BLM), near Blanding, Utah, touching off a dangerous confrontation.

Acting U.S. Attorney Carlie Christensen filed an "information" in federal court charging the five, who were led by San Juan County Commissioner Phillip Kay Lyman, with two serious charges. Each charge carries a penalty of up to one year in jail and a \$100,000 fine.

One charge says the five conspired to operate ATVs on public land closed to ATVs and one says the five actually operated ATVs on the closed lands. The area the five entered is called Recapture Canyon.

Said Christensen, "We respect the fact that the citizens of this State have differing and deeply held views regarding the management and use of Recapture Canyon, and recognize that they have the right to express those opinions freely. Nevertheless, those rights must be exercised in a lawful manner and when individuals choose to violate the law, rather than engage in lawful protest, we will seek to hold those individuals accountable under the law."

Added BLM Director Neil Kornze, "Regrettably, a number of individuals organized and engaged in an illegal ATV ride through Recapture Canyon, an area rich in archaeological history. Today's actions by the U.S. Attorney's Office underscore the importance of protecting culturally significant areas and holding accountable those who broke the law."

BLM Utah State Director Juan Palma said the canyon is off limits to ATVs because it contains ancient artifacts and dwellings. He said there are more than 2,800 miles of trails open to ATVs near Blanding.

On their behalf riders said they were protesting federal overreach in the management of public lands, according to press reports.

Last year San Juan County asked the Monticello Field Office of BLM to

open a Recapture Canyon All-Terrain Vehicle Trail System Right-of-Way (ROW). The 14.25-mile ROW would include three trailheads and signage. However, the Hopi Tribe and conservationists opposed the ROW.

County officials say BLM is dragging its feet in responding to the petition that was submitted more than a year ago. Led by Lyman, the Utahns said BLM should be able to both allow ATV use in Recapture Canyon and protect cultural resources at the same time.

The Recapture Canyon confrontation stems from a decades-old disagreement between conservative westerners and the federal government over management of the public lands. Counties like San Juan chafe at restrictions imposed by land managers on access routes, grazing rights, energy development and so on.

Also charged with Lyman were these four Utah residents: Monte Jerome Wells, age 50, of Monticello; Jay Demar Redd, age 40, of Santa Clara; Shane Morris Marian, age 33, of Monticello; and Franklin Trent Holliday, age 31, of Blanding.

The Recapture Canyon set-to was the second major confrontation between private citizens and BLM last spring. On April 12 rancher Cliven Bundy in Nevada refused to leave public lands when ordered to do so by BLM. (Ryan Bundy, a son of Cliven Bundy, was one of the ATV riders in Utah. He was not charged by the U.S. Attorney.)

Cliven Bundy and some 100 citizens, many of them armed, faced down BLM when the bureau tried to confiscate 100 head of cattle. What the feds do next to Bundy is unclear. Among their options are liens on property, a contempt citation or lawsuits.

Environmentalists on September 2 demanded that the Justice Department act on criminal complaints against the rancher. The Public Employees for Environmental Responsibility (PEER) published documents that showed BLM filed criminal complaints with Justice five months ago, and no public action has been taken.

Without the support of the U.S. Judicial system, PEER said, BLM employees would be at the mercy of antagonists.

The House subcommittee on Public Lands addressed the dispute July 24 from a different direction. It gave a platform to citizens who said public land managers had bullied them. Testifying at a hearing were western local officials, ranchers, business owners and private citizens who said the feds took their property rights.

The complaints seem to be aimed mostly at law enforcement officials. For instance, A. Grant Gerber, an Elko County Commissioner from Nevada said many federal law enforcement officials are "belligerent" and "are especially offended if anyone opposes any Federal Government actions."

Greens still question Indian management of Bison Refuge

Environmentalists said September 18 that the Fish and Wildlife Service (FWS) has prepared an inadequate environmental analysis of the impacts of transferring management of the National Bison Range to an Indian tribe.

The environmentalists, led by the group Public Employees for Environmental Responsibility (PEER), said the FWS environmental analysis (EA) fails because it assumes the same impacts whether FWS or the tribe manage the range. That in effect lays the groundwork for continued litigation.

In comments on the draft EA submitted to FWS PEER said, "Most basically, this is because the DEA does not actually analyze the potential environmental impacts of the proposed action or other alternatives, which is the whole purpose of NEPA review. Instead, the DEA merely assumes that there will be no environmental impacts from the proposed change in management structure and the substitution of less experienced personnel occasioned by the AFA which is the preferred alternative, and to varying degrees, by the other alternatives."

An AFA is an annual funding agreement by which federal agencies transfer responsibility for managing federal lands to nonfederal entities. Environmentalists like PEER have been fighting efforts by both the Bush and Obama administrations to delegate management responsibility of the National Bison Range to the Confederated Salish and Kootenai Tribes (CSKT).

This is the third attempt by FWS to write a legally-acceptable AFA. It approved the first in 2005 and the second in 2011. The U.S. District Court for the District of Columbia overturned the latest AFA for lack of an environmental review.

But PEER says the new EA does not address its basic complaint that FWS has not analyzed the differing environmental impacts between FWS management of the refuge and the CSKT. It says the AFA fails because it doesn't establish a system for resolving disputes, it doesn't allow "meaningful" public participation and it doesn't prevent the tribe from reducing services to save money, among other things.

The federal court only addressed the environmental impact issue. But PEER says a more fundamental legal challenge remains unaddressed, i.e. AFAs violate federal laws by transferring federal responsibilities to nonfederal entities, such as the tribes.

Said PEER in its comments to FWS, "In particular, the current draft AFA continues to delegate inherently federal functions and transfer administration of the (Bison Range) away from the Secretary and the FWS, in violation of the NWRSA and the ISDEAA." The NWRSA is the National Wildlife Refuge System Administration Act and the ISDEAA is the Indian Self-Determination and Education Assistance Act.

PEER also said the AFA issue extends beyond the Bison Range. "The implications and precedential impact of this AFA resound far beyond the National Bison Range," PEER told FWS. "According to DOI official determinations, 57 National Park Service units in 19 states are listed as eligible for

similar tribal agreements, including national parks such as Redwood, Glacier, Voyageurs, Olympic and the Cape Cod National Seashore."

PEER continued, "Similarly, another 18 refuges in 8 states, including all of the Alaska National Wildlife Refuges, are also eligible for similar agreements. These eligible refuges constitute 80% of the land area of the entire National Wildlife Refuge System."

Congress has become involved. Sen. Maria Cantwell (D-Wash.) has sponsored legislation (S 919) that would revise the AFA authority. An impressive bipartisan list of 13 senators cosponsored the bill that the Senate Indian Affairs Committee approved August 1.

The old perennial - omnibus lands bill - has candidates

The list of popular, bipartisan bills that are contenders for an omnibus lands measure in the upcoming lame-duck session of Congress is as long as your arm.

Despite the popularity of the individual bills, the success of any omnibus bill probably lies to a large extent on the results of the November 4 elections. If the Republican Party manages to take over the Senate, giving them control of both Houses next year, the Republicans in this Congress will be tempted to do all they can to prevent the lame duck from doing anything.

That would give the GOP a clean slate next year, albeit with a Democrat in the White House.

The House Natural Resources Committee may have set up a possible lead bill September 18 when it passed a popular cabin fee bill (HR 5476).

HR 5476 would replace an existing law - the Cabin User Fee Fairness Act of 2000 - that bases fees on Forest Service appraisals set at five percent of the market value. In 2007 the Forest Service began reappraising cabins,

and, because some cabins had not been appraised for as much as 30 years, the appraisals went through the roof.

HR 5476 would establish 11 tiers of fees from \$600 up to \$5,600. The Senate Energy Committee approved a counterpart bill (S 1341) on Dec. 19, 2013. *(See related article page 6.)*

The House and Senate have begun to move a handful of other popular bills that are candidates for an engine to pull an omnibus bill, or are at least candidates to popularize such a measure. They include:

Manhattan Project: The House May 22 revived a proposal to designate a Manhattan Project National Park to commemorate the development of the Atomic Bomb by including it in a must-pass Defense authorization bill (HR 4435). However, Congress dropped the park provision before approving the bill.

Similarly, last year the House included the Manhattan Project park in a fiscal year 2014 Defense authorization bill, only to see the provision dropped in a House-Senate conference committee.

House Natural Resources Committee Chairman Doc Hastings (R-Wash.) has moved a stand-alone bill (HR 1208) through his committee. It is now awaiting House floor action, as it has been for more than a year.

Sen. Maria Cantwell (D-Wash.) has introduced a counterpart stand-alone bill (S 507), along with senators from Tennessee and New Mexico. Their states include potential park sites. The Senate Energy Committee approved S 507 more than a year ago and it awaits Senate floor action.

Hatteras park plan: The Senate Energy Committee approved a bill (S 486) Sept. 10, 2013, that would strike a compromise on the future of a Cape Hatteras National Seashore management plan. The bill would leave in place a Park Service plan, but would require a review of the plan. Democrats and Republicans, led by bill sponsor Sen.

Richard Burr (R-N.C.), hashed out the compromise.

However, House Republicans have a different idea. They would straight up reverse a Park Service plan for the national seashore that reduced beach access to off-road vehicles. The House February 6 approved the legislation (HR 819) sponsored by Rep. Walter Jones (R-N.C.) The Obama administration "strongly opposes" the Jones bill, it says.

National heritage areas: The House subcommittee on Public Lands held a hearing July 29 on legislation (HR 445) that would establish a national policy for National Heritage Areas (NHAs). Under the present system NHAs are usually established when powerful legislators attach riders to omnibus lands bills or to appropriations bills, no questions asked.

No national policy bill has been introduced in the Senate yet during this session of Congress. However, various administrations, senators and House members from both parties have sought for two decades to gain control over NHAs with a national policy.

A clutch of bills to designate individual new NHAs have been introduced in this Congress and the House National Resources Committee and Senate Energy Committee have passed or held hearings on a number of them.

Heritage areas usually consist of a mix of public and private lands with striking social, economic, historical and natural features. NHAs don't, in their entirety, quite rise to the level of national parks. However, some NHAs do actually include national park units within their borders.

Gettysburg expansion bill back. The Senate Energy Committee filed a report on this bill (S 782) May 22 to add two important tracts to Gettysburg National Military Park, but the measure hasn't come up on the floor yet. The bill, which has been around for several Congresses, would add to the park the Gettysburg Railroad Station and a 45-

acre tract at the south end of the battlefield that hosted cavalry battles. The House approved a counterpart bill (HR 1513) January 13 by a 396-to-0 margin.

The sponsor of the House bill, Rep. Scott Perry (R-Pa.), said the legislation would not require any land acquisition because the Gettysburg Foundation already owns the station land and will donate it to the federal government. The National Trust for Historic Gettysburg currently operates the station and until recently had used it as an information center. Supporters anticipate the Park Service will again use the station as a visitors center.

The 45-acre tract along Plumb Run was the site of a cavalry encounter during the battle of Big Round Top. Sen. Robert P. Casey, Jr., (D-Pa.) introduced the counterpart Senate bill that the Senate Energy Committee approved Nov. 21, 2013.

Montana forests: The Senate Energy Committee reported legislation May 22 that would set up a pilot timber sale program in two forests in Montana, and designate a million acres of conservation land. The Senate Energy Committee approved the bill (S 37) from Sen. Jon Tester (D-Mont.) Dec. 19, 2013.

Of note eight (out of ten) committee Republicans opposed the measure. Ranking committee minority member Sen. Lisa Murkowski (R-Alaska) said the million acres of protected land (including 667,000 acres of wilderness) was out of balance with the timber harvest on just 100,000 acres.

But Tester said his bill would not only create jobs for the timber industry but would also benefit the state's \$6 billion outdoor economy.

Notes

Giant California plan planned.

The Interior Department and the State of California said September 23 they will write a plan to prescribe management of the 22 million acres of federal, state, private and Indian land in the California Desert. The idea is to at

once protect conservation areas in the desert and set aside high potential renewable energy sites. Secretary of Interior Sally Jewell and Secretary of the California Natural Resources Agency John Laird posted a draft plan, www.drecp.org. Actually three separate plans will make up the final plan - one to amend an existing Bureau of Land Management (BLM) plan for the California Desert, one to identify areas to be protected and developed prepared by the California Department of Fish and Wildlife, and one to streamline renewal energy projects in nonfederal areas. Said Jewell, "The draft plan released today will help provide effective protection and conservation of the California desert important for wildlife, recreation, cultural preservation and other uses, while encouraging streamlined renewable energy development in the right places."

Suh leaving DoI to head NRDC.

Assistant Secretary of Interior Rhea Suh will leave the department to become president of the environmental group Natural Resources Defense Council (NRDC) in January. Suh had been nominated as assistant secretary of Interior for Fish and Wildlife and Parks, but the nomination has been held up in part by ranking Senate Energy Committee Republican Lisa Murkowski (R-Alaska). She has repeatedly questioned Suh's qualifications. The Senate Energy Committee March 27 approved Suh's nomination, but barely, by a 12-to-10 vote. At NRDC Suh will replace Frances Beinecke as president. Said Beinecke of Suh, "She understands that (climate change) is the greatest environmental, health and economic threat of our time, and she understands that this is the moment we can turn the tide. She will be ferocious in this fight, and I can't wait to watch her take this on." Said Suh, "For the sake of our children, and the health and safety of all Americans, we must put an end to climate change pollution and create a sustainable future for everyone." NRDC has 1.4 million members and 350 professional employees.

Nevada lands bill moving. A Nevada Republican and a Nevada Democrat teamed up September 15 to secure House

passage of a group of Northern Nevada lands bill lumped into one bigger bill (HR 5205). The measure would authorize the designation of up to 71,500 acres of wilderness and set aside 23,000 acres for economic development. Among other things HR 5205 would authorize the sale of 10,000 acres to aid the expansion of a copper mine near the city of Yerington. Lead Republican sponsor Mark Amodei said just before the vote he hopes Nevada Sens. Harry Reid (D) and Dean Heller (R) move the bill to enactment. Said Amodei, "After expected passage by the House, for the second time, on Monday evening, I will sit by my phone waiting for the call from Senators Reid and Heller inviting me to the White House to see the President sign this consensus and long overdue Nevada legislation." Said lead Democratic sponsor Steven Horsford, "The Yerington Jobs Bill is an example of what we can get done in Washington when we put petty partisan differences aside and come together for the good of our constituents." The House passed the bill without a formal vote. The Bureau of Land Management manages all the public lands involved in the legislation.

Only Florida opts out of RTP.

Forty-nine of the 50 states will participate in the fiscal year 2014 Recreational Trails Program, setting up the distribution of almost \$82 million in grant money. As usual, Florida will not participate. The Federal Highway Administration will parcel out the money next week. The Recreational Trails Program is a subset of the umbrella Transportation Alternatives Program of a surface transportation law that allocates money to outdoor programs, including Transportation Enhancements, Safe Routes to School and so on. However, in the law, Moving Ahead for Progress in the 21st Century (PL 112-141 of July 6, 2012), Congress set aside a guaranteed \$85 million each year for recreational trails from the \$720 million per year allocated to the Transportation Alternatives Program.

Great Lakes plan set. EPA published a Great Lakes Restoration Initiative (GLRI) that describes

actions federal agencies will take in the next few years to protect the Great Lakes. Said EPA Administrator Gina McCarthy, "The new Great Lakes Restoration Initiative Action Plan lays out the steps we need to take to get us closer to the day when all Great Lakes fish will be safe to eat, all beaches will be safe for swimmers and harmful algal blooms will not threaten our drinking water supplies." The feds say the five-year restoration effort is the largest conservation initiative in American history. Much more at <http://greatlakesrestoration.us/>.

Liberal duck hunting season looms.

The Fish and Wildlife Service said September 23 that it has set liberal seasons and bag limits for upcoming late-season waterfowl hunting. "For the 2014 hunting season, we are continuing to consider the same regulatory alternatives as those used last year," said FWS.

Sportsmen weigh in on BLM planning.

The Bureau of Land Management (BLM) had barely begun the long process of updating its planning guidance earlier this month than sportsmen weighed in. Operating as the Theodore Roosevelt Conservation Partnership, the sportsmen September 11 urged BLM to protect backcountry areas for hunting and fishing. Said Ryan Callaghan, marketing manager with First Lite, a performance hunting clothing manufacturer based in Ketchum, Idaho, "Backcountry public lands are a foundation of Western hunting, and the BLM should manage these areas to conserve their primitive values and the high-quality sporting opportunities they provide. Doing so not only would protect our sporting heritage; it also would directly benefit our bottom line." BLM has a long way to go before it completes so-called "Planning 2.0" guidance that would tell field offices how to rewrite land use plans. Those revised plans would decide what uses would be allowed, and would not be allowed, on BLM lands over the next two or three decades. Although BLM has not said specifically what uses it will favor in the new plans, back-up documents signal that the bureau will put great

emphasis on coping with climate change and promoting renewal energy.

Pam Haze retires at DoI. For the last five years Pam Haze without flinching has taken unfriendly fire from Republicans and Democrats alike as the Interior Department's point person in the House and Senate Appropriations Committee. Now she has retired, effective last month. The chairman of the Senate appropriations subcommittee overseeing the department, Sen. Jack Reed (D-R.I.), submitted a lengthy encomium to the Federal Register September 11. "The appropriations process simply would not be the same without her and the dedication, wisdom, and the good humor she brought to her work," he said.

FS planning board to meet. The National Advisory Committee for Implementation of the National Forest System Planning Rule will meet next September 30-Oct. 2 in Arlington, Va., just outside Washington, D.C. The committee submitted recommendations to the agency on Nov. 21, 2013, on implementing a planning rule of March 23, 2012. The rule governs the preparation of individual unit plans for the 155 national forests and 20 grasslands in the National Forest System. The Department of Agriculture August 12 named 21 members from the public to a new iteration of the advisory committee. The previous panel's recommendations appear to be less controversial than the rule itself. The individual forest plans, required by the National Forest Management Act, govern virtually all uses in the national forests. The new rule is being tested out in these eight units of the National Forest System: the Nez Perce-Clearwater National Forest in Idaho, the Chugach National Forest in Alaska, the Cibola National Forest in New Mexico, El Yunque National Forest in Puerto Rico and California's Inyo, Sequoia and Sierra National Forests.

Conference calendar

OCTOBER

7-9. **Outdoor Industry Association Rendezvous** in Asheville, N.C. Contact:

Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

14-16. **National Recreation and Park Association Congress and Exposition** in Charlotte, N.C. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. <http://www.nrpa.org>.

15-17. **Sport Fishing Summit** in San Antonio, Texas. Contact: American Sport Fishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. <http://www.asafishing.org>.

20-24. **National Forest Recreation Association** annual conference and Trade Show in Reno, Nev. Contact the website at nfra.org or the NFRA Office at: 559-564-2365.

25-30. **The Wildlife Society Annual Conference** in Pittsburgh, Pa. Contact: The Wildlife Society, 5410 Grosvenor Lane, Bethesda, MD 20814-2197. (301) 897-9770. <http://www.wildlife.org>.

27-30. **National Scenic & Historic Trails Conference** in Salt Lake City, Utah. Contact: Partnership for the National Trails System at www.pnts.org.

NOVEMBER

11-14. The **National Trust for Historic Preservation Annual Conference** in Savannah, Georgia Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, D.C. 20036. (202) 588-6100. <http://www.preservation.org>.

18-22. **National League of Cities Annual Congress of Cities** in Austin, Texas. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. <http://www.nlc.org>.

DECEMBER

3-5. **America Outdoors Marketing and Management Conference** in Daytona Beach, Fla. Contact: <http://www.americaoutdoors.org/>.