

# Federal Parks & Recreation

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## **Senate begins work on money bills, sets higher caps**

The Senate Appropriations Committee at last began work this week on fiscal year 2012 appropriations bills. On Wednesday (September 7) the committee established all-important spending caps for individual bills.

For an Interior Department and Related Agencies spending bill the committee set a cap of \$29.3 billion, or \$1.8 billion more than the \$27.5 billion that House appropriators assigned to a counterpart Interior bill. The Senate number is still \$284 million less than a fiscal 2011 allocation of \$29.6 billion and \$2 billion less than the \$31.3 billion recommended by the Obama administration.

Separately, on Wednesday the Senate Appropriations Committee approved an Energy and Water spending bill. Senate appropriators have not set a schedule yet for marking up an Interior and Related Agencies bill.

Fiscal year 2012 of course will begin in three weeks, meaning Congress will almost certainly have to extend fiscal 2011 spending and/or prepare an omnibus fiscal 2012 bill from all pending individual bills. The alternative is to close down the government on October 1.

Complicating the process for House and Senate appropriators, they must establish new spending caps based on a grand budget deal (PL 112-25 of August 2). In that the House had already established spending caps, it has to adjust them using the extra \$20 billion authorized by the budget deal.

The House had been plowing through its appropriations bills at a pace far ahead of the Senate, until it took an August vacation. Since then House

leaders have scheduled no floor action on money bills.

Until Wednesday the Senate Appropriations Committee had been so far behind it had not even established fiscal 2012 caps. While the Democratic-controlled Senate is traditionally more generous than the Republican-controlled House in appropriations bills, the ironclad budget ceiling gives the Senate little wiggle room.

Still the committee September 7 approved spending ceilings that approximate fiscal 2011 ceilings.

Here's where Congress stands on individual spending bills.

**AGRICULTURE BILL:** The House approved a fiscal 2012 Department of Agriculture appropriations bill (HR 2112) June 16 with reductions of \$1 billion in conservation spending. And the \$1 billion comes on top of a \$500 million reduction in fiscal 2011. The Senate has yet to address.

**ENERGY AND WATER BILL:** The House July 15 approved a fiscal 2012 Energy and Water appropriations bill (HR 2354) that would, among other things, block a proposed new Obama administration wetlands permit policy. The Senate Appropriations Committee approved its bill September 7.

**TRANSPORTATION BILL:** A fiscal 2012 Transportation spending bill had not begun to move in the House at press time, but it was scheduled for mark-up in subcommittee late yesterday, September 8. The appropriations committee has set a spending cap for the bill of \$47.7 billion that is \$7.7 billion less than the fiscal 2011 appropriation of \$55.4 billion.

House Republican leaders had reportedly deferred action on the Transportation bill until fall to allow time to resolve budget deficit disagreements.

**INTERIOR BILL:** The House spent a week in July working on an Interior bill (HR 2584) but did not complete it. At press time House leaders had not

established a schedule for the bill, either by itself or in an omnibus bill.

The House has been in general tough on "conservation" programs, such as the Land and Water Conservation Fund, heritage areas, state and wildlife conservation grants and historic preservation grants. Federal land managers are doing a bit better, with Park Service and Forest Service appropriations in the neighborhood of fiscal 2011 numbers.

Here's some detail on what the House has done, and may soon do, to the Interior and Related Agencies bill:

**LWCF AMENDMENTS:** The most significant LWCF amendment would have eliminated all federal land acquisition. It was defeated in an unrecorded vote. Chief sponsor Rep. Doug Lamborn (R-Colo.) would have lopped off all federal land acquisition money. (The House Appropriations Committee had already eliminated grants for the state side of LWCF.)

The second LWCF amendment succeeded. It would increase federal land acquisition by \$20 million by deducting the same \$20 million from Interior Department overhead. It was approved on an unrecorded vote. The sponsor was Rep. Charlie Bass (R-N.H.)

The third LWCF amendment also succeeded. It would add \$5 million to the federal side of LWCF for hunting and fishing access. The money would come from EPA's Brownfields Restoration program. The amendment was sponsored by Rep. Scott Tipton (R-Colo.)

In addition Rep. Rush Holt (D-N.J.) has prepared but not yet offered a pro forma amendment that would guarantee LWCF \$900 million per year, without further appropriation. Guaranteed funding is the Holy Grail of LWCF supporters, but it has zero chance of House acceptance.

**PROGRAM SPENDING LEVELS**  
**CONSERVATION:** Here's what HR 2584 looked like when it reached the House floor for other conservation programs:

For national *heritage areas* the committee met the administration request of \$9 million, but that is \$8.4 million below the fiscal 2011 enacted level of \$17.4 million. The committee noted that Congress has increased the number of heritage areas in recent year from 27 to 49 and urged partnerships that manage those areas to find new sources of funding.

The House on July 26 rejected by voice vote an heritage area amendment from Rep. Paul Tonko (D-N.J.) that would have restored the additional \$8.4 million from last year. To pay for the increase, Tonko would have deducted \$8.4 million from an Office of the National Parks Service account.

For state and Indian *wildlife conservation grants* the bill contains \$22 million, down by \$40 million from the \$62 million in fiscal 2011.

For the *Historic Preservation Fund* HR 2584 would provide \$49.5 million, or almost \$5 million less than the fiscal 2011 level and \$11.5 million below the budget request.

For the *Save America's Treasures* grants program the bill contains no money, the same as fiscal 2011 and the administration request. In fiscal 2010 Congress appropriated \$25 million.

For the *Preserve America* grants program the bill contains no money, the same as fiscal 2011 and the administration request. In fiscal 2010 Congress appropriated \$4.6 million.

#### **PROGRAM SPENDING LEVELS FED LANDS:**

Here's what HR 2854 would do for federal land management agencies with outdoor responsibilities:

\* Park Service operations: \$2.243 billion, or \$6.9 million less than the \$2.250 billion in fiscal 2011. The administration request was \$2.297 billion.

\* Park Service construction: \$152 million, or \$58 million less than the \$210 million in fiscal 2011. The administration request was \$152 million.

\* Park Service recreation and preservation: \$49.4 million or almost

\$10 million less than the \$59 million in fiscal 2011. The administration request was \$51.6 million.

\* National Forest System: \$1.547 billion, or \$2 million more than the \$1.545 billion in fiscal 2011.

\* National forest recreation management: \$281.6 million, or the same as fiscal 2011. The administration requested \$290.5 million

\* BLM recreation management: \$67.6 million, or \$1.2 million less than the fiscal 2011 level of \$68.8 million. The administration requested \$76.8 million.

\* BLM NLCS: \$20 million, or \$11.9 million less than the fiscal 2011 appropriation of \$31.9 million. The administration requested \$39.3 million.

\* FWS refuge management: \$455 million, or \$37 million less than the fiscal 2011 appropriation of \$492 million. The administration requested \$503 million.

**RIDERS:** Here are policy amendments in HR 2854 and possible candidate amendments:

**GRAND CANYON MINING:** Democrats are expected to offer a floor amendment that would allow the Interior Department to withdraw 1 million acres of federal land from uranium mining near Grand Canyon National Park. As now written the bill would bar such a withdrawal.

The bill says "none of the approximately 1,010,776 acres of public lands and National Forest System lands described in (an emergency withdrawal) . . . may be withdrawn from location and entry under the General Mining Law of 1872," unless Congress approves such a law.

Secretary of Interior Ken Salazar June 20 ordered a six-month withdrawal of the one million acres to block temporarily additional uranium development. Then he chose a preferred alternative of a 20-year withdrawal in an EIS that will be completed over the next six months. Salazar said he would make a final decision this fall on a 20-year withdrawal.

**MONUMENTS DESIGNATIONS:** Rep. Denny Rehberg (R-Mont.) may propose an amendment that would ban the designation

of national monuments by the Obama administration without Congressional approval. A ban on monument designation could be more consequential than a ban on wild lands because the Antiquities Act of 1906 has been used more than 100 times over the last decade to protect large tracts of American land.

Beginning with Teddy Roosevelt, 15 Presidents have designated national monuments ranging in size from the one-acre Fort Matanzas National Monument (managed by the National Park Service) in Florida to the 10,600,000-acre Yukon Flats National Monument in Alaska (now a wildlife refuge).

If the House takes up a Rehberg amendment, it might simply forbid President Obama from designating national monuments. Or the amendment might allow Presidential designation of monuments under the condition that Congress confirm it within two years.

**WILD LANDS:** In one policy vote July 27 the House approved a provision that would bar the Interior Department from designating any new 'wild lands.' The bar on wild land designations may not be necessary because Secretary of Interior Ken Salazar has said BLM will not on its own designate wild lands but will ask Congress to do so.

The ban is already in place through September 30 in a fiscal 2011 appropriations bill (PL 12-10 of April 15) and Salazar himself has pledged not to designate any wild lands without Congressional approval.

Rep. James Moran (D-Va.) offered the unsuccessful House floor amendment to remove the wild lands provision. But Rep. Rob Bishop (R-Utah) said that just because Salazar promised not to designate wild lands doesn't make it so.

**CALIFORNIA OHV ROUTES:** The provision would direct the Forest Service in California to allow OHV use on "Maintenance Level" roads in national forests. Four Republican House members led by Rep. Wally Herger (R-Calif.) have introduced stand-alone legislation (HR 242).

## Summit should help implement NPS's 'Call to Action'

This time may be different. A landmark new report on the future of the National Park System, announced August 25, may actually have a direct impact on the parks.

That's because NPS and four sets of its partners have tentatively scheduled a summit in late January to figure out how to implement the report.

And the 36-point *Call to Action*, prepared in anticipation of the system's Centennial in 2016, would in general not require new federal money.

Given the national temper about federal spending that may have been the only recourse NPS Director Jon Jarvis and his team had. As Jarvis said last week, "There will not be much - if any - new money in our future, so we have concentrated on what can get done within current budgets and in some cases, with the assistance of our incredible partners."

In keeping with the times the report treads lightly on the Obama administration's signature conservation recommendation - full funding for the Land and Water Conservation Fund (LWCF) at \$900 million or more per year.

The NPS report does call for a shake-up in the state-side program of LWCF. The *Call to Action* recommends that the 60 percent of state grant money now allocated to states on the basis of population be awarded competitively.

As close as the report comes to recommending more money is a call for a \$1 billion legacy endowment to be assembled from philanthropic sources. And that money would be derived from nonfederal sources.

Jarvis and his top aides August 25 introduced the *Call to Action* at an employee town hall meeting at Ford's Theater National Historic Site in Washington, D.C. The report is available at <http://www.nps.gov/calltoaction/>.

The Park Service had scheduled a call-in press conference with Jarvis August 31 to discuss the report but that was canceled when Secretary of Interior Ken Salazar asked for his presence.

At bottom the report appears to constitute a doable agenda because it was prepared by NPS employees for NPS employees, in consultation with outside allies. Numerous landmark policy reports on the future of NPS have been prepared over the last decade both by NPS and by blue ribbon commissions, to little effect. Most have sat on shelves.

In the next step some 100 people from the five major NPS activist organizations intend to meet November 1 and 2 in Washington, D.C., to prepare for the January summit. Those groups include the National Parks Foundation, the National Parks Conservation Association, the National Parks Hospitality Association (concessioners) and friends groups. Plus the Park Service, of course.

The summit would be held in Washington, D.C., from January 24 through January 26 to lay out responsibilities for implementing the *Call to Action*.

The 36 recommendations include everything from more healthful eating to greater diversity in the workforce. Many track the recommendations of an America's Great Outdoors initiative, President Obama's main outdoor recreation program.

The billion-dollar foundation recommendation is reminiscent of a Bush administration proposal to spend \$2 billion on non-core improvements to the National Park System. In 2007 then Secretary of Interior Dirk Kempthorne launched a \$3 billion National Park System Centennial Initiative that included the \$2 billion Centennial Challenge.

Kempthorne recommended that Congress put up \$1 billion at a rate of \$100 million per year to be matched by \$1 billion in nonfederal contributions, again at a rate of \$100 million per

year. In fact Kempthorne solicited well over \$300 million in non-federal commitments, only to see the initiative lapse on Capitol Hill.

## King memorial in Washington added to National Park System

A Martin Luther King, Jr. Memorial became the 395<sup>th</sup> unit of the National Park System August 28 at a dedication ceremony at the site on the mall in Washington, D.C.

The site, roughly midway between the Lincoln Memorial and the Jefferson Memorial, was built with private donations of \$120 million. The donations were assembled by the Martin Luther King, Jr. National Monument Foundation.

Said NPS Director Jon Jarvis, "Forty-eight years ago, Dr. King took to the steps of the Lincoln Memorial and challenged our nation to fulfill his dream of equality for all Americans. On the anniversary of that speech, we are proud to add the Martin Luther King, Jr. Memorial to the National Park System as a lasting tribute to this American hero."

The dedication was delayed three days - from August 25 to August 28 - because of Hurricane Irene. The Park Service has not announced yet hours when the memorial will be open to the public.

King of course was a leader of the Civil Rights Movement in the United States from the mid-1950s until his death in 1968. Using nonviolent techniques King helped bring about voting rights and housing rights laws that transformed America.

The pinnacle of King's career, it is generally acknowledged, came on Aug. 28, 1963, when he delivered his "I Have A Dream" speech at the Lincoln Memorial.

King lived for 39 years from Jan. 15, 1929, to April 4, 1968, when he was assassinated by James Earl Ray in Memphis, Tenn.

Major national corporations,

particularly the automobile industry, led the fund-raising effort. Automobile manufacturers in total contributed \$10 million, led by General Motors with \$4 million, followed by Ford and Toyota with \$2 million each.

The memorial site in Washington, D.C., is a separate entity from the Martin Luther King, Jr. National Historic Site in Atlanta. The Atlanta site includes several buildings and properties that are important to King's life including his birthplace and the Ebenezer Baptist Church where King and his father pastored.

As for the memorial in Washington Congress authorized its establishment in 1996, 25 years before construction of the massive monument on four acres was completed.

There are three key websites, one for the memorial, [www.nps.gov/mlkm/](http://www.nps.gov/mlkm/), one for the foundation that raised money for the memorial, [www.mlkmemorial.org](http://www.mlkmemorial.org), and one for the historic site in Atlanta, <http://www.nps.gov/malu/>.

## **President now seeking an extension of roads bill**

President Obama last week asked Congress to act quickly on a temporary extension of an existing surface transportation law to allow time to write a longer-term law.

Senate Environment and Public Works (EPW) Committee Chair Barbara Boxer (D-Calif.) had already said she intends to mark up a four-month extension bill. Her committee began marking up the extension yesterday (September 8). She said her bill would simply continue the existing law and would contain no substantive policy changes.

But it is Presidential involvement in the issue that is expected to get Congress moving. An existing extension of the old law is set to expire September 30.

Meanwhile, the President yesterday (September 8) in a major speech to

Congress asked for significant short-term increases in infrastructure spending to goose the economy. Although he favored surface transportation expenditures in the speech it was not clear how much might trickle down to park and rec projects.

If Congress did extend the existing surface transportation law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) - park and rec projects should continue. SAFETEA-LU provides up to a billion dollars per year for programs such as transportation enhancements, recreational trails, scenic byways, Safe Routes to School and other outdoor programs. The next law is not expected to be nearly as generous.

In effect the White House, Congressional leaders and interest groups are talking about two possible extensions of SAFETEA-LU: one for four months through January and one for two years. Boxer herself said the four-month extension should give the EPW committee time to write the two-year extension.

But extensions are not guaranteed because some Republicans have said they would just as soon see the whole federal surface transportation law expire because it is supported by a gasoline tax. Obama himself raised the possibility SAFETEA-LU will be terminated on October 1 by inaction of Congress.

"And that's just not acceptable," he said in an August 31 speech. "That's inexcusable. It's inexcusable to put more jobs at risk in an industry that's already been one of the hardest hit over the last decade. It's inexcusable to cut off necessary investments at a time when so many of our highways are choked with congestion, when so many of our bridges are in need of repair, . . ."

To which Boxer said, "At the earliest opportunity in September, the Senate must approve a bill that funds highway and public transportation programs at current levels through January 2012, so that America can avoid more unacceptable job losses. It is

critically important that the Senate pass this bill before the current transportation authorization expires."

Secretary of Transportation Ray LaHood described the consequences, long-term and short-term. "If we allow our transportation law to expire without an extension, almost 1 million construction and other workers will lose their jobs over the coming year," he said after the President's talk. "If the extension is delayed for just 10 days, our nation will lose nearly \$1 billion in highway funding, and that is money we can never get back. In addition, over 4,000 of our professionals in the Department of Transportation will be immediately furloughed without pay."

So the man on the hot seat is House Transportation Committee Chairman John Mica (R-Fla.), who is caught between conservative Republican demands for an end to SAFETEA and gas taxes on one side and the President on the other.

Mica sort of committed to an extension August 31. "Republicans have offered positive and financially responsible alternatives to get these measures moving. As Chairman of the House Transportation Committee, I will agree to one additional highway program extension, this being the eighth of the overdue transportation reauthorization," he said.

House and Senate committees are poised to begin work on both extension bills as well as multi-year surface transportation bills. Both the House Transportation Committee and the Senate EPW Committee have outlined new long-term legislation. Although the bills haven't been fleshed out, the outlines spell trouble for most park and rec programs, especially in the House.

Mica outlined a six-year surface transportation bill July 7 that, as expected, would provide little assistance to recreation. He said the bill would eliminate some 70 programs and delegate to states responsibility for dividing up appropriations money. State transportation departments traditionally favor road construction over recreation.

Senate EPW leaders outlined a two-year surface transportation bill in July that would eliminate dozens of stand-alone programs. EPW Chair Boxer and ranking Republican James Inhofe (Okla.) didn't identify programs that would be eliminated, but Boxer said that Safe Routes to School and recreational trails programs would be retained.

An EPW committee outline also says that federal lands roads will continue to be financed by the bill.

The Senate bill will be called MAP-21 after Moving Ahead for Progress in the 21<sup>st</sup> Century. Mica and his allies have not named the House bill yet.

On the all-important money question the Senate committee bill and a House Transportation Committee bill differ greatly. Mica's outline of a bill would stay within the Highway Trust Fund and slash funding for surface transportation by more than \$16 billion per year compared to fiscal year 2011. The total annual allocation would come in around \$27 billion.

Boxer and Inhofe would continue existing spending levels of more than \$50 billion per year for two years. (Transportation-spending math doesn't always add up.) Inhofe said the Senate measure would require an extra \$12 billion.

## **Wyoming powers that be back Yellowstone snowmobilers**

Led by Gov. Matthew H. Mead (R), the Wyoming Congressional delegation this week repeated its recommendation that Yellowstone National Park allow up to 520 snowmobiles per day in the park, far above the maximum proposed by NPS.

Responding to an NPS request for public comments on draft regulations due to go into effect this winter, Mead told the Park Service September 7, "The daily limits listed in the proposed rule for snowmobile use is too low. The best available information for air quality, soundscape, and wildlife supports a level in the range of 540 snowmobiles per day. At that daily allocation level

the impact to resources is recorded as minimal within the Draft Yellowstone Winter Use Plan and DEIS."

In the draft regulations of July 5 NPS proposed a rule that would authorize variable daily limits on snowmobile use with as many as 330 on peak days and as few as 110 on slow days. The average would be 254 machines per day. Snowcoach use would range from 30 to 80 vehicles per day.

However, the proposed rule would extend the existing, temporary numbers through this coming winter (2011-2012), allowing for up to 318 snowmobiles and 38 snowcoaches per day.

(The NPS procedure here is a little confusing because it is preparing a regulation at the same time it is preparing a winter plan/EIS. NPS proposed the regs July 5, just 13 days before the comment period ended on the plan/EIS.)

Predictably, public comments on the proposed rule are nearly identical to public comments on the draft plan/EIS, with retired Park Service officials and environmentalists demanding lower numbers of snowmobiles and snowmobile user groups demanding higher numbers.

A powerful coalition of Park Service retirees and environmentalists is asking NPS to phase out snowmobile use, period, in favor of snowcoaches. "By facilitating a complete transition to snowcoach access within Yellowstone, you will fulfill Director (Jon) Jarvis's charge for a sustainable winter management plan 'consistent with the NPS mission, best available sound science, accurate fidelity to the law, and the long-term public interest,'" said the alliance in July.

The alliance includes the Coalition of National Park Service Retirees, Greater Yellowstone Coalition, National Parks Conservation Association, Natural Resources Defense Council, Sierra Club, and Winter Wildlands Alliance.

By itself the Coalition of National Park Service Retirees last

month also advised Yellowstone Superintendent Dan Wenk that he should give equal credence to national as well as local comments. The retirees said, "Some comment summaries have implied that citizens who live in states other than Wyoming, Montana and Idaho have submitted a disproportionately high percentage of comments. That representation is irrelevant inasmuch as Yellowstone is a *national* park, and it also omits the fact that the total population of these three states is just one percent of the national population." The emphasis on national is the coalition's.

From the other side the BlueRibbon Coalition said the NPS limit is too low, and asked for a range of 400 to 450 snowmobiles per day. Said the coalition in guidance to its membership on commenting to NPS, "If the Park Service wants to provide opportunity for both commercially guided and non-commercially guided snowmobile access to the Park, the range of daily entries should be increased to between 400 to 440 per day. Per the DEIS, this daily entry range shows no adverse effects to the Park resources."

Last winter (2010-2011) the park posted a daily limit of 318 snowmobiles per day. A 2004 plan allowed 720. Clearly, the Interior Department is trying to strike a middle ground between environmentalists who recommend no snowmobiles in the park and users.

The Park Service for the fourth time in a decade is attempting to develop a permanent rule to govern snowmobile use in Yellowstone. The previous three rules were thrown out by various courts, forcing NPS to issue temporary rules.

The draft plan/EIS presents seven alternatives, ranging from no motorized use to up to 720 snowmobiles and 78 snowcoaches per day. Except for Alternative One, which would bar all powered vehicles from the park, the alternatives anticipate substantial snowcoach use to complement snowmobile use.

For more information on the plan

go to <http://parkplanning.nps.gov/yell>.

## **Forest Service cabin fee bill would set new fee tiers**

House Republicans and Democrats are trying once again this year to establish a whole new system for establishing recreation residence payments for cabin owners in the National Forest System.

The House subcommittee on National Parks, Forests and Public Lands had scheduled a hearing for today (September 9) on a bill that would substitute predictable tiers of fees for the existing system of periodic appraisals.

The legislation, to be introduced by House Natural Resources Committee Chairman Doc Hastings (R-Wash.), is aimed at preventing huge spikes in fees when the Forest Service reappraises cabins. The appraisals are presently conducted pursuant to the Cabin User Fee Fairness Act of 2000 (CUFFA).

Said the subcommittee in announcing the hearing last week, "The current cabin fee structure is unpredictable, leaving families who own cabins in our National Forests subject to arbitrary, escalating cabin fees caused by an ineffective appraisal system."

As a result of the higher fees, "many cabin owners have put their cabins on the market only to find that the skyrocketing fees make the cabins unsellable," said the subcommittee.

But the Forest Service, in commenting on a predecessor bill in the last Congress, said that many cabin owners also make out at taxpayers' expense. Joel Holtrop, deputy chief of the National Forest System, testified to the House subcommittee last April,

"Our analyses indicate that many of the proposed fees are less than those which would be paid under current law and below market value for many of the lots," he said. "As previously noted, fees below market value can lead to windfall profits when cabins are sold, as

the sale prices will reflect the value of the locations as well as the value of the cabins."

To prevent that the legislation should include additional tiers beyond the five tiers in last year's House bill, he said. Indeed, a Senate bill from the last Congress would have established nine tiers.

Holtrop said the existing program costs about \$10 million per year to operate with \$1 million for appraisals and \$500-to-\$700 per cabin to administer.

The legislation's greatest strength in the last Congress was bipartisan support both in the Senate and the House. For instance, a Senate bill last year was sponsored by two Democrats - Sens. Jon Tester (Mont.) and Max Baucus (Mont.) - along with two Republicans - Sens. John Barrasso (Colo.) and James E. Risch (Idaho.)

Similarly, the House bill in the last Congress counted numerous Democrats among its 29 sponsors.

The Forest Service says 14,000 cabins dot the national forests. When the recreation residence program began in 1915, the service invited people to build cabins on national forest land. In return the service charged a nominal fee. Congress has from time-to-time revised the fee system, most recently in 2000 with CUFFA.

Under CUFFA the service began in 2007 to reappraise fees, an effort that is supposed to be completed next year. Because new appraisals had not been made in as many as 30 years, some huge increases were imposed.

## **Conservatives press Hill to block Obama wetlands policy**

Land rights advocates are keeping the pressure on Congress to block a proposed new Obama administration wetlands permit policy.

The guidance proposed by EPA April 27 would expand the definition of waters

requiring disturbance permits well beyond the "navigable" standard now in effect. EPA would also require permits for activities in adjacent wetlands and tributaries to navigable waters.

House Republicans are listening to their supporters. On July 15 the House approved a fiscal 2012 Energy and Water appropriations bill (HR 2354) that would block the permit policy. And in July the House considered, but did not complete, an Interior bill (HR 2584) that would do the same thing.

But to succeed the provision must be accepted by the Senate and the White House. So land rights advocates such as the American Land Rights Association are encouraging the House to stand strong and for the Senate to go along.

Said ALRA in an August 26 bulletin to its members, "Don't let EPA and the Corps remove 'Navigable' from the Clean Water Act using slight of hand regulations. Don't allow EPA and the Corps to gain new jurisdiction over all waters of the United States."

ALRA continued, "You must go after your Congressman and both Senators to get them to put a stop to this giant land and water grab by EPA and the Corps of Engineers."

The Interior spending bill still pending on the House floor says no money in the bill or any other bill may be used "to develop, adopt, implement, administer, or enforce a change or supplement to the rule dated November 13, 1986, or guidance documents dated January 15, 2003, and December 2, 2008, pertaining to the definition of waters under the jurisdiction of the Federal Water Pollution Control Act."

The proposed Obama administration guidance attempts to interpret a U.S. Supreme Court decision that appeared to limit Section 404 permitting authority to navigable waters. That is the famous *Rapanos* decision.

An alliance of sportsmen objected to the House Republican provision because of its possible negative impact on habitat for hunting and fishing.

"While sportsmen understand the need for fiscal conservatism, this rash decision by Congress leaves vulnerable waters that provide critical habitat to fish and wildlife, flood control, drinking water and a range of other benefits," said Steve Kline, director of the Theodore Roosevelt Conservation Partnership Center for Agricultural and Private Lands.

When the Obama administration proposed the new guidance April 27, it aroused the ire of 170 House members from both parties. Besides the substance of the draft, the critics argued that EPA and the Corps don't have authority to interpret a Supreme Court decision on navigable waters in guidance.

They said the agencies must use formal rule-making procedures. The House members were led by Reps. Bob Gibbs (R-Ohio) and Tim Holden (D-Pa.) Their concern is the guidance would limit commercial activities in wetlands.

The Supreme Court was evenly divided in its June 19, 2006, decision, *Rapanos v. U.S. Nos. 04-1034 and 04-1384*, which muddied the regulatory waters. On the one hand the court did uphold the authority of the Corps and EPA to regulate water bodies. But crucially it also limited the definition of a water body to navigable waters without clearly defining navigable waters.

Congress last year had before it Democratic legislation (HR 5088) that would have asserted that almost all wetlands must receive Clean Water Act permits. Former House Transportation Committee Chairman James Oberstar (D-Minn.) introduced a bill in April 2010 that went nowhere.

The Senate Environment and Public Works Committee June 18, 2009, approved a counterpart bill (S 787), but the measure went no further.

Both bills said that the Corps of Engineers, working with EPA, must approve Section 404 permits under the Clean Water Act for all projects on waters of the United States.

## **GOP leaders muse about oil development in Everglades**

Two leading Republicans said in the last fortnight they would support oil and gas drilling in the Everglades, if it were done with great care.

In a campaign stop in Sarasota, Fla., August 28 Republican Presidential candidate Michele Bachman said, "The United States needs to be less dependent on foreign sources of energy and more dependent upon American resources. Whether that is in the Everglades, or whether that is in the eastern Gulf region, or whether that's in North Dakota, we need to go where the energy is." Bachman also serves as a Congresswoman from Minnesota.

According to the *Associated Press*, she added, "Of course it needs to be done responsibly. If we can't responsibly access energy in the Everglades then we shouldn't do it."

Giving the idea some credence Florida Gov. Rick Scott (R) said September 6 he might be able to support oil development in the Everglades. But, he said, "I think we have to be very cautious on any oil drilling, whether it's already in the state or in our beaches or in the Gulf, because we aren't going to ruin our environment."

In a speech to the Economic Club of Florida he was quoted in the local press, "With regard to the Everglades, I think we have to be very cautious if there's going to be any more drilling."

The idea of oil and gas development in Everglades National Park seems like a nonstarter, if only because Alaskans for 20 years have been unable to gain approval of oil and gas development in the Arctic National Wildlife Refuge. And the reserves in the refuge are believed to be substantial.

In addition environmentalists jumped on the Bachman/Scott suggestion. Said Kirk Fordham, CEO of the Everglades Foundation, "If there is any thought being given to expanding oil drilling

into the Everglades, my suggestion to the governor is quite simple: Don't go there. Unless Gov. Scott wants to unleash a firestorm of opposition from hunters, fishermen, conservationists and millions of Floridians who depend on the Everglades for their water supply, he should abandon any notion of encouraging drilling in this sacred place."

No oil company has floated the idea of oil and gas development in the Everglades.

The major national policy thrust in the Everglades has been to protect it through a multi-billion Comprehensive Everglades Restoration Project (CERP). Congress authorized CERP in 2000.

Under it the Corps of Engineers, the State of Florida and Interior Department agencies are charged with carrying out major projects to restore the Everglades by constructing reservoirs and in general replumbing south Florida. The reserve acquisitions are north of that area.

## **Regulatory reform impact on outdoors may be indirect**

House Republicans and the Obama administration are racing each other this fall to see who can most quickly limit the impact of federal regulations on business. However, the direct impact of the administration and House campaigns on parks and recreation appears to be indirect.

Individual departments have begun to list regulations that could be eliminated or eased in response to a January executive order from President Obama. The departments have not yet mentioned park and rec regulations in those lists, other than a clarification of land "classification" systems.

House Republicans have become very specific, and they intend to hold periodic votes this fall on ten rules. House Natural Resources Committee Chairman Doc Hastings (R-Wash.) said this spring the troublesome public lands regulations include "wild lands" policy issued by Secretary of Interior Ken

Salazar on Dec. 23, 2010, that orders BLM to protect wild lands. (That policy of course is pretty much in abeyance because Congress has already cut off money for it.)

But wild lands is not among the 10 rules on the House Republican agenda. The rule with the most probable impact on parks and recreation is an EPA proposal that would limit greenhouse gases.

**HOUSE PLAN:** House Majority Leader Eric Cantor (R-Va.) described August 29 ten rules that are the House hit list for this fall and winter. They include seven EPA regulations (including greenhouse gas, ozone and farm dust), two labor rules and one health care rule.

The contest between the House Republicans and the administration was renewed August 26 when Speaker of the House John Boehner (R-Ohio) wrote the President and demanded information about upcoming regulations. "I am again asking that your Administration provide a list of all pending and planned rulemakings with a projected impact on our economy in excess of \$1 billion," Boehner wrote August 26.

Boehner said he had heard that the administration plans to issue 219 new regulations with an annual cost of at least \$100 million each.

In response to Boehner and on behalf of the administration, Cass Sunstein, administrator of the Office of Information and Regulatory Affairs, said federal agencies are already on the job.

In a statement she said August 26, "Just this month, twenty-six agencies released regulatory review plans, with over 500 reform initiatives. A mere fraction of the new initiatives will save more than \$10 billion over the next five years; as progress continues, we expect to be able to deliver savings far in excess of that figure. Already, we've finalized or formally proposed reforms to save more than \$4 billion of regulatory costs over that period."

Rep. Cantor said legislation to

block the greenhouse gas rule should reach the House floor this winter. He said the rule would affect energy development facilities including coal-fired power plants. Coal-fired power plants are frequently blamed for impairment of visibility over Class I national parks and wilderness areas.

**INTERIOR PLAN:** The Interior Department on July 11 solicited public recommendations for regulatory reform and said that land classification rules were candidates for revision.

Interior said the Bureau of Land Management will propose land classification regulations that will both clarify existing rules and transfer them into the bureau's land use planning system. BLM sometimes segregates lands from commercial uses with land classifications.

## Notes

**Salazar calls for new Everglades refuge.** Secretary of Interior Ken Salazar September 7 proposed the establishment of an 150,000-acre national wildlife refuge just south of Orlando, Fla. The refuge would help protect waters that flow into Everglades National Park. The Everglades Headwaters National Wildlife Refuge would be made up of 100,000 acres of easements and 50,000 acres of acquired land. The refuge would be located in the Kissimmee River Valley and include grasslands and longleaf pine savanna. The Interior Department first proposed the idea in January and has held several field hearings since. Congress would have to approve the \$700 million needed to acquire land for the refuge.

**Monuments hearing set in House.** A House subcommittee will hold an important hearing September 13 (Tuesday) on a suite of bills designed to curb Presidential authority to designate national monuments. These bills would either forbid the designation of national monuments under the Antiquities Act of 1906 or require Congressional approval within a set time. The bills are HR 302 from Rep. Virginia Foxx (R-N.C.), HR 758 from Rep. Devin Nunes (R-Calif.), HR 817 from Rep. Wally

Herger (R-Calif.), HR 845 from Rep. Dennis Rehberg (R-Mont.), HR 846 from Rep. Raul Labrador (R-Idaho) and HR 2147 from Rep. Rob Bishop (R-Utah). The House subcommittee on National Parks, Forests and Public Lands, chaired by Bishop, will hold the hearing.

**Elwha Dam removal finally to begin.**

It's been almost 20 years since Congress ordered the removal of two Elwha River dams in Washington State to open 70 miles of the river to salmon, trout and recreation. Finally, on September 17 leading politicians will join the Park Service at the launch of a \$300 million-plus initiative to remove the Elwha and Glines Canyon dams. The initial phase consists of the removal of the dams. The Interior Department has awarded a \$26.9 million contract to Barnard Construction of Bozeman, Mont., to do the job. Dam removal is projected to take up to three years. Once the dams are removed the project calls for construction of water treatment plants, flood protection facilities, a fish hatchery and a greenhouse. The Park Service projects that by lowering the level of water in a lake behind the dams the normal flow of the water in the Elwha River will begin cutting a new channel. Some 13 million cubic yards of sediment have built up since the dams were built a century ago. As a result of the removal of the dam salmon and trout are expected to repopulate the river. In addition the restoration of the river is projected to replenish beaches at the mouth of the river. Little power will be lost from removal of the dams: the existing hydro facility provides just one-half of the power required by one mill. Attending the launch ceremony September 17 will be Gov. Chris Gregoire (D-Wash.), Washington's two senators, Rep. Norman Dicks (D-Wash.), Secretary of Interior Ken Salazar and three assistant secretaries of Interior.

**Sportsmen fear GOP roadless**

**bill.** Colorado hunters and fishermen are asking leading politicians in Colorado to oppose a Republican bill (HR 1581, S 1087) that would overturn a Clinton administration roadless area rule. That rule largely bars road construction in 58 million acres of national forest. More specifically, as

a follow-on to the Clinton rule the State of Colorado and the Forest Service are nearing completion of a localized rule for Colorado's 4.2 million acres of roadless national forest. And the sportsmen fear HR 1581 and S 1087, if enacted, would prevent completion of the Colorado rule. So last week the hunters and fishermen wrote Colorado Gov. John Hickenlooper (D-Colo.) and Colorado House members asking them to oppose the legislation. "If passed, the Wilderness and Roadless Area Release Act could eliminate the Colorado roadless rule and throw away years of stakeholder involvement while opening up millions of acres of backcountry public lands to development," the letter says. David Lien, vice chair of Colorado Backcountry Hunters and Anglers, said, "Science shows that disturbances such as road building and poorly planned energy development can harm species important to sportsmen, such as mule deer, elk and wild trout. Currently, Colorado's national forest backcountry accounts for 76 percent of greenback cutthroat trout habitat, 71 percent of Colorado River cutthroat trout habitat and 58 percent of Rio Grande cutthroat trout habitat. HR 1581 would jeopardize these valuable fisheries."

**Fed lands rec bill in.** Although Congress was only in a pro forma session September 2 four House members still managed to introduce legislation (HR 2834) that would have federal land managers give hunting and fishing a prominent seat at the policy table. The House subcommittee on National Parks, Forests and Public Lands scheduled a hearing on the bill for today (September 9). The measure, with Rep. Dan Benishek (R-Mich.) as the lead sponsor, would have the Forest Service and the Bureau of Land Management consider all lands open to hunting, fishing and shooting unless they were specifically closed. "Only" four House members cosponsored the bill, perhaps because it was introduced during the August recess. In the last Congress 64 House members sponsored the measure.

**Overflight bill in spotlight.**

Again. Senate and House leaders are faced once more this month with a deadline for expiration of a law that

governs operations of the Federal Aviation Administration (FAA). The extensions are supposed to give the House and Senate time to complete multi-year authorization bills that would revise substantially National Park Service air tour policy. Congress has extended the old law 21 times to provide such an opportunity. The existing extension runs until September 16. In July the House and Senate could not even agree on an extension, let alone substantive policy, leaving FAA without money for several weeks. The House and Senate long-term bills (HR 658, S 223) include quite different revisions to air tour policy over national parks. The House approved its multi-year FAA bill April 1. HR 658 would establish new aviation policy in general and overflight policy in particular for the next four years. Among other things the bill would exempt parks with 50 or fewer air tours per year from preparation of an air tour management plan. It would also allow FAA and NPS to develop "voluntary agreements" with air tour operators to allow overflights without a management plan. The Senate approved its multi-year FAA bill February 17. S 223 would establish new aviation and air tour policy for just two years. It would in general tighten regulations governing overflights. Among other things the bill would attempt to clarify the air tour responsibilities of the Federal Aviation Administration and the Park Service.

## Conference calendar

### OCTOBER

4-6. **Outdoor Industry Association Rendezvous** in Portland, Ore. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

5-10. **The Wildlife Society** annual meeting in Waikoloa, Hawaii. Contact: The Wildlife Society, 5410 Grosvenor Lane, Bethesda, MD 20814-2197. (301) 897-9770. <http://www.wildlife.org>.

12-14. **Sportfishing Summit** in New Orleans, La. Contact: American Sportfishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314.

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

13-16. **Land Trust Alliance** rally in Milwaukee. Contact: Land Trust Alliance, 1331 H St., N.W., Suite 400, Washington, DC 20005-4711. (202) 638-4725. <http://www.lta.org>.

19-22. **The National Trust for Historic Preservation** annual conference in Buffalo, N.Y. Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, DC 20036. (202) 588-6100. <http://www.nationaltrust.org>.

### NOVEMBER

1-4. **National Recreation and Park Association** congress and exposition in Atlanta. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. <http://www.nrpa.org>.

2-4. **National Forest Recreation Association** annual conference in Scottsdale, Ariz. Contact: National Forest Recreation Association, P.O. Box 488, Woodlake, CA 93286. (559) 564-2365. <http://www.nfra.org>.

8-12. **National League of Cities** annual Congress of Cities in Phoenix. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. <http://www.nlc.org>.

19-23. **Council of State Governments** state trends forum in Bellevue, Wash. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. [www.csg.org](http://www.csg.org).

### DECEMBER

5-8. **America Outdoors** marketing and management conference in Reno, Nev. Contact: <http://www.americaoutdoors.org/>.

7-8. **Western Governors' Association** winter meeting in Palm Springs, Calif. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202-5114. (303) 623-9378. <http://www.westgov.org>.