

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Celina Richardson

Volume 29 Number 14, July, 22 2011

In this issue. . .

House panel hits park, rec grants.

Approps committee in FY 2012 money bill cuts deep into LWCF, wildlife grants, etc. Also okays major policy riders... Page 1

House panel goes easy on feds.

NPS operations, FS rec and BLM rec do okay in FY 2012 money bill, in comparison..... Page 3

House fight due on Grand Canyon.

Major vote expected on money bill provision that rejects Salazar uranium claim withdrawal.... Page 5

GOP leaves monuments act alone.

In approps committee. But Rep. Rehberg may mount floor fight. 'Wild lands' ban is added... Page 6

Highway bill fight heats up.

As House, Senate committees near mark-up. Senators outline bill, fault House spending cap.... Page 7

Wyoming gov backs snowmobiles.

In Yellowstone. Mead prefers cap well above NPS proposal..... Page 9

House backs OHVs in forests.

Directs service to take three steps to increase use..... Page 9

Tipton may ask new FLREA audit.

Prepares draft letter asking for study. Faults agency use... Page 10

FS roadless rule draws attention.

Sportsmen criticize new Colorado rule. Alaskans want out.... Page 12

Notes..... Page 13

Boxscore of Legislation..... Page 15

House committee retains outdoor spending cuts, riders

Despite a fierce attack from Democrats, the House Appropriations Committee July 12 approved a lead fiscal year 2012 park and rec appropriations bill (HR 2584) packed with major program cuts and riders.

Some of those riders will face tough challenges when the bill reaches the House floor in the next fortnight.

But the numbers are pretty much locked in. That's because House rules require a deduction from existing allocations to pay for any increase.

Despite an all-out lobbying campaign by conservationists, the committee provided just \$43.9 million for federal acquisition under the Land and Water Conservation Fund (LWCF), compared to \$165 million in fiscal 2011. And it approved just \$2.8 million for the state side of LWCF, compared to \$40 million in fiscal 2011.

Similarly, for state and Indian wildlife conservation grants the subcommittee approved \$22 million, down by \$40 million from the \$62 million in fiscal 2011.

The Senate has not begun to address domestic appropriations bills yet. Nor has it begun work on a Congressional budget that is supposed to guide appropriations bills.

But if and when it does act on appropriations bills, the Senate is expected to support far greater spending for conservation than the House.

Senate Appropriations Committee Chairman Daniel Inouye (D-Hawaii) is making ritual noises about the need for the Senate to get to work. His office

sent us a recent statement from Inouye that said in part:

"As I told my colleagues back in March, if we fail to move individual appropriations bills through Congress, we will again be faced with the prospect of passing a CR or an Omnibus in order to prevent a government shutdown. I believe that the ongoing budget negotiations will eventually produce a bipartisan agreement on discretionary spending levels. In the meanwhile, as these vital discussions move forward, the Committee, in keeping with its long tradition of bipartisanship, is working to find common ground and move forward with the fiscal year 2012 appropriations process."

The House committee approved significant policy changes, such as a ban on the withdrawal of one million acres of public land near Grand Canyon National Park from mining claims. Secretary of Interior Ken Salazar is pursuing such a withdrawal. (See *related article page 5.*)

And the committee approved an amendment to block the Interior Department's "wild lands" programs for fiscal 2012. Congress earlier approved a provision that cut off wild lands money for fiscal 2011, which ends September 30. (See *related article page 6.*)

Federal land managers did a bit better than grant programs, with Park Service and Forest Service appropriations in the neighborhood of fiscal 2011 numbers. (See *following article.*)

Rep. Jim Moran (D-Va.) opened the barrage of Democratic attacks, beginning with the spending cap. The committee set a spending cap for the Interior and related Agencies bill that was \$2.1 billion less than in fiscal 2011, a decrease to \$27.5 billion from a \$29.6 billion allocation in fiscal 2011. The cap is \$3.8 billion less than the administration's fiscal 2012 request.

Said Moran, ranking Democrat on the House Appropriations subcommittee on Interior and Related Agencies, "It is my unfortunate duty to have to - once

again - point out that the Republican leadership has proposed an exceedingly low subcommittee allocation. And there is no surprise that the resulting bill will devastate the environment and our ongoing efforts to preserve America's natural heritage. Two key examples of this potential damage are that the bill includes the lowest level of spending in the (LWCF) in more than 40 years and funding levels for EPA not seen in more than a decade."

Subcommittee chairman Michael Simpson (R-Idaho), chief architect of HR 2584, defended his work. "While the bill makes significant spending reductions across many agencies and programs, it also provides ample funding to address the needs of key accounts supported by a bipartisan cross-section of Members," he said.

As for the LWCF cuts Simpson said, "I personally would like to see more funding for LWCF; the problem is we just don't have the money."

Although the committee would reduce spending across-the-board for conservation programs, it did find money for commercial users of the public lands. For example to accelerate the renewal of grazing permits the committee approved a \$10.6 million increase for grazing management by the Bureau of Land Management (BLM), to \$87.5 million from \$76.9 in fiscal 2011. For the Forest Service the committee approved an increase in grazing of \$5.7 million to \$55.4 million from \$49.7 million in fiscal 2011.

Here's what the committee did to (or for) other grant programs:

For national **heritage areas** the committee met the administration request of \$8,993,000, but that is \$8,408,000 below the fiscal 2011 enacted level. 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.

For the **Historic Preservation Fund** the committee approved \$49,500,000, 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 committee approved 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 committee approved no money, the same as fiscal 2011 and the administration request. In fiscal 2010 Congress appropriated \$4.6 million.

A large coalition of more than 600 mostly conservation groups July 6 tried to head off the slaughter. "The Federal budget cannot and should not be balanced disproportionately on the backs of conservation, outdoor recreation and preservation," the coalition wrote Senate and House leaders. "Doing so will impose on the future generations whose well-being depends on the conservation and preservation of our common natural and historic resources."

The coalition included such diverse groups as The Wilderness Society, the Outdoor Industry Association, labor groups and the Public Lands Foundation, a BLM retiree group.

In other spending bills 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 House July 15 approved a fiscal 2012 **Energy and Water** appropriations bill (HR 2354) that would block a proposed new Obama administration wetlands permit policy. That is the same provision that the House committee inserted in the Interior bill July 13.

Finally, a fiscal 2012 **Transportation** spending bill has not begun to move. It was originally scheduled for subcommittee action July 14, followed by full committee July 26. The 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 committee goes fairly easy on agency budgets

In approving a fiscal year 2012 outdoors spending bill (HR 2584) July 12 the House Appropriations Committee scalpel did not dig into the flesh of federal land management agencies as deeply as it did into conservation programs.

For instance the committee reduced the appropriation for Park Service operations by "only" \$6.9 million, from \$2.250 billion in fiscal 2011 to \$2.243 billion.

Said Rep. Michael Simpson (R-Idaho), principal architect of the bill, "Members will be pleased to know that the operations of our national parks are sustained at levels only slightly below last year which means every park unit in the country will be operational and fully staffed without the threat of furloughs or layoffs." Simpson chairs the House Appropriations subcommittee on Interior.

For Forest Service recreation management the committee met the fiscal 2011 appropriation number of \$281.6 million, although that was \$8.9 million below the administration's fiscal 2012 request.

For Bureau of Land Management (BLM) recreation management the committee approved \$67.6 million, down \$1.2 million from fiscal 2011 and \$9.2 million below an administration request.

The committee took the National Landscape Conservation System managed by BLM to the woodshed, cutting the appropriation by \$11.9 million, to \$20 million from \$31.9 million in fiscal 2011. Moreover, the appropriation represents almost a 50 percent reduction from the Obama administration request of \$39.3 million.

The 26 million-acre NLCS is by definition made up largely of conservation lands, including "wild lands." And in a separate provision the committee blocked the implementation of an administration program to designate

wild lands. (See separate article page 6.)

For management of national wildlife refuges the committee approved a \$37 million decrease for fiscal 2012, in sharp contrast with a recommendation from an alliance of refuge supporters.

The Cooperative Alliance for Refuge Enhancement published a new report this month identifying a \$2.7 billion maintenance backlog and a \$677 million operations backlog in the National Wildlife Refuge System.

Said Michael Hutchins, executive director of The Wildlife Society, "The System's tremendous value to the American public stands in stark contrast to the amount provided in the Interior and Environment Appropriations bill that will be on the floor of the (House) later this month." The report is available at: [Restoring America's Wildlife Refuges](#).

HR 2584 is expected to reach the House floor in the next fortnight. Although Democratic critics say they will offer amendments to remove controversial riders, there is not much they can do to increase program spending. That's because House rules require a deduction from existing allocations to pay for the increase.

The Senate thus far this year has been missing in action. The Senate Budget Committee failed to develop a Congressional budget and the Senate Appropriations Committee has scheduled no domestic bill mark-ups yet.

In addition to the operating budgets of the federal land management agencies, the committee approved a substantive provision that would block proposed Obama administration wetlands policy guidance. The bill says no money, whether fiscal 2012 or prior, could be used to redefine navigable waters. That definition guides EPA and the Corps of Engineers in deciding whether a Section 404 wetlands permit is required for projects that affect the nation's waters.

In the July 12 mark-up the House

Appropriations Committee put itself in a bind by establishing a spending cap for the bill that was \$2.1 billion less than in fiscal 2011, a decrease to \$27.5 billion from a \$29.6 billion allocation in fiscal 2011. The cap is \$3.8 billion less than the administration's fiscal 2012 request.

Here are some of the numbers in HR 2584 for land management agencies, compared to fiscal 2011:

- * 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.

Here are two riders dealing with federal land management:

WETLANDS DEFINITION: The House has already approved in an Energy and Water spending bill (HR 2354) a ban on the implementation of proposed Obama administration guidance on a definition of navigable waters subject to wetlands permitting. That definition would help EPA and the Corps of Engineers decide

whether a Section 404 wetlands permit is required for projects that affect the nation's waters. Now the Interior bill includes a similar provision.

The Interior spending bill 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.

CALIFORNIA OHV ROUTES: The provision would direct the Forest Service in California to allow off-highway vehicle (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). (See separate article page 9.)

House floor vote due on mining claims near Grand Canyon

The big test will probably come on the House floor in the next ten days. But the House Appropriations Committee July 12 approved by a narrow 23-to-26 margin a provision that would prevent the withdrawal from mining claims of 1 million acres of public land near Grand Canyon National Park.

At the committee mark-up of a fiscal year 2011 Interior spending bill (HR 2584) supporters of the ban, led by Rep. James Moran (R-Va.), argued that the mining of uranium on public lands adjacent to Grand Canyon constituted a threat to the water in the park.

"How ironic that in the same bill where you prohibit the protection of Grand Canyon from uranium we have to appropriate funds to clean up pollution in the Navajo Nation from uranium

mining," he said. "It has cost the taxpayer more than \$1 billion to clean up uranium tailings along the Colorado River in Utah."

Rep. Jeff Flake (R-Ariz.) countered that the risks to the park are vastly exaggerated. Besides, he said, environmentalists in Arizona struck a grand bargain with Arizona politicians in 1984. In exchange for the designation as wilderness of 290,000 acres of Bureau of Land Management (BLM) lands and 834,000 acres of Forest Service lands they agreed to release other wilderness study lands to multiple use, meaning uranium mining.

"This language (in the bill) reflects the historic agreement that was reached between (former Rep. Morris) Udall (D-Ariz.) and (former Sen.) Barry Goldwater (D-Ariz.)," he said. Flake added "That's what this shelving of the ability to mine - not in the Grand Canyon, let's dispel that notion - is all about."

On the docket is a double action taken by Secretary of Interior Ken Salazar June 20. He ordered a six-month withdrawal of the 1 million acres of BLM and Forest Service lands from the filing of any new hard rock mining claims to block temporarily additional uranium development.

Separately, Salazar chose a preferred alternative to be analyzed in an EIS over the next six months that would carry out a 20-year withdrawal.

The million acres in question are already closed to new mining claims by a July 21, 2009, segregation notice. The notice had been scheduled to expire on July 20 until Salazar imposed the withdrawal for six months on June 28. The formal withdrawal would close the area for 20 years, save for valid existing rights.

Existing claims that hold valid existing rights theoretically can be developed. But the mining industry fears that a 20-year withdrawal would effectively prevent development of all but a few claims.

Industry is concerned that only those claims that (1) already demonstrate a discovery of minerals and (2) demonstrate they could be economically developed would qualify for valid existing rights. Development of all other claims would be barred for the foreseeable future.

Craig Obey, senior vice president of government affairs for the National Parks Conservation Association, objected to the House committee vote, saying, "Today, the House Interior Appropriations subcommittee unveiled legislation that is a direct assault on the preservation of Grand Canyon National Park and the Colorado River."

The Northwest Mining Association praised the committee. "This is a big step and a significant victory for the mining industry, but much work remains to be done to prepare for the full House vote," the association said in a bulletin to its members.

House Republicans act on wild lands, but not on monuments

The House Appropriations Committee July 12 approved an extension through fiscal year 2012 of a ban on the implementation of Secretary of Interior Ken Salazar's "wild lands" program.

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.

But Rep. Cynthia Lummis (R-Wyo.) wanted to be sure, so she secured committee passage of an amendment to a fiscal 2012 spending bill (HR 2584) to extend the ban through fiscal 2012. The committee approved the amendment by voice vote.

The committee did not act on a related, and potentially more controversial proposal, to ban the designation of national monuments by the Obama administration without Congressional approval. Rep. Denny Rehberg (R-Mont.) was the expected

sponsor. Rehberg may offer that amendment on the House floor. His office would not divulge in advance to *FPR* Rehberg's amendment plans.

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

The wild lands and monuments issues have long been a favorite target of western Republican Congressmen, easterners have generally been partial to them. Most recently Virginia Sens. Jim Webb (D) and Mark Warner (D) wrote President Obama June 29 and asked him to designate Fort Monroe in Virginia as a national monument.

Under a 2005 Base Realignment and Closure Act the 565-acre Fort Monroe is scheduled to be removed from the jurisdiction of the Army in September. The property is to be transferred to the Commonwealth of Virginia and to be overseen by the Fort Monroe Authority, a subdivision of the state.

The wild lands provision may not be necessary because Secretary of Interior Ken Salazar already told two senior House Republicans June 22 BLM will not attempt to designate wild lands after October 1. Instead, Salazar has promised to work with Congress and the public to inventory possible wilderness that only Congress could designate.

But the House committee said that

inventory may be one-dimensional. In a report accompanying the bill the committee said, "The Committee points out that inventories should, however, cover all land uses and multiple uses, not just lands with wilderness character. The values to be assessed include wildlife and fish habitat, non-motorized and motorized recreation, hunting, fishing, grazing, conventional and renewable energy development, mining, wilderness character, forest management and aesthetics."

In addition to the repeal of the wild lands policy western Republicans have demanded release of BLM and Forest Service wilderness study areas to multiple uses and repeal of a Clinton administration national forest roadless rule. Their most recent attack came in late May when five senators, led by Sen. John Barrasso (R-Wyo.), introduced legislation (S 1087) to accomplish those four goals. Rep. Kevin McCarthy (R-Calif.) has introduced a counterpart bill (HR 1581).

The House subcommittee on National Parks, Forests and Public Lands has scheduled a hearing on HR 1581 for Tuesday (July 26).

Salazar's December 2010 wild lands Order #3310, which applies just to BLM-managed lands, is also being fought over in the courts. Backed by the State of Alaska, the State of Utah filed a lawsuit April 29 to block it. The states argued, just as Utah counties did in a previous lawsuit, that only Congress has the authority to designate wilderness, and the Interior Department policy usurps that authority.

The *Associated Press* reported last month that Utah and Alaska will continue to pursue their lawsuit even though Salazar promised not to designate any wild lands.

Senators outline highway bill, House criticism grows

Senate Environment and Public Works (EPW) Committee leaders outlined a two-year surface transportation bill July 19 that, like a

counterpart House bill, would eliminate dozens of stand-alone programs.

While EPW Chair Barbara Boxer (D-Calif.) and ranking Republican James Inhofe (Okla.) didn't identify programs that would be eliminated, they may include major recreation initiatives. That is, transportation enhancements, recreational trails, scenic byways, Safe Routes to School and other recreation programs.

The outline says that federal lands roads will continue to be financed by the bill. The outline says the measure when fleshed out will "provide money for highway projects on Federal lands, tribal reservations, and roads that provide access to Federal lands. Agencies receiving funding include the National Park Service, the Forest Service, the Bureau of Indian Affairs, the Bureau of Land Management, the Army Corps of Engineers, and the Fish and Wildlife Service."

The Senate bill, to be called MAP-21 after Moving Ahead for Progress in the 21st Century, may go to committee mark-up before Congress leaves on a summer vacation around August 5.

On the all-important money side the Senate committee bill and a House Transportation Committee bill, also due for mark-up shortly, will differ greatly.

House Transportation Committee Chairman John Mica (R-Fla.) has outlined a bill that would stay within the Highway Trust Fund and slash funding for surface transportation by more than \$16 billion per year. Boxer and Inhofe would continue existing spending levels for two years.

Boxer and Senate Banking Committee chair Tim Johnson (D-S.D.) wrote all Senate and House members last week and pleaded with them to reject the Mica proposal and maintain existing spending levels. Boxer would spend \$54.5 billion per year compared to the \$38.3 billion in the Mica outline. Boxer and Johnson would probably need general revenues from appropriations to make up the difference.

Boxer and Johnson wrote the senators and House members July 15. "Please support a bill which maintains funding at the current levels, includes significant reforms to make the nation's transportation programs more streamlined and efficient, and provides robust assistance for transportation projects under the Transportation Infrastructure Finance and Innovation Act program to leverage state, local and private-sector funding."

Complaints about inadequate spending are coming not just from Democrats but also from such traditional Republican allies as the U.S. Chamber of Commerce. U.S. Chamber of Commerce Executive Director of Transportation Janet Kavinoky said in a statement recently Congress should follow the Senate model.

"The 35% cut from current funding as laid out in the House budget will be devastating to construction and related industries—materials, equipment, design and engineering," she said. "As important, in the long run, disinvestment results in a less competitive economy and a drag on GDP due to underperforming infrastructure."

Kavinoky continued, "An alternative exists. Recently members of the Senate Environment and Public Works outlined a surface transportation proposal that includes needed policy and program reforms and maintains funding levels at current services. Doing this for two years requires identifying \$12 billion in additional resources over the next two years."

Mica has responded to such attacks by arguing that he is doing the best he can under House budget rules. "The outline responsibly presents how we can dramatically leverage Highway Trust Fund dollars within the current spending rules and restrictions imposed by the House-adopted budget," he said. He reportedly has said the Chamber position presents a "potential setback" to the House bill, according to *The Hill* newspaper.

Mica described 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 (the Senate outline calls for the elimination of 57) and delegate to states responsibility for dividing up appropriations money. State transportation departments traditionally have favored highway construction over recreation programs.

Unlike the existing surface transportation law the House bill will probably set aside no money for transportation enhancements, recreational trails, scenic byways, Safe Routes to School and other recreation programs.

Outdoor advocates are also keeping their eyes on a potential provision in both the Senate and House that would revise existing requirements for environmental reviews of recreation and cultural sites. In the last six-year law (SAFETEA-LU) the National Trust for Historic Preservation and recreation groups helped write a 4(f) position that would provide exemptions from such reviews only under carefully-defined circumstances.

Sen. Lisa Murkowski (R-Alaska) fired an opening shot in the 4(f) debate May 26 when she introduced legislation (S 1081) to further limit environmental reviews. Her bill in general would streamline the environmental review process for highway projects. It would give the Federal Highway Administration additional responsibility for expediting projects and would eliminate several layers of environmental review. Murkowski said her bill would make highway projects significantly less expensive at a time when highway money is at a premium.

OBAMA ADMINISTRATION: The administration's fiscal year 2012 budget recommended a \$556 billion six-year surface transportation bill or \$92.6 billion per year. The administration would provide robust funding for such outdoor programs as transportation enhancements, recreational trails, scenic byways and federal lands roads. It would consolidate them into a new "Livability" line item at \$4.1 billion.

Comparable programs under the existing law received \$2.9 billion in fiscal 2010. They are now funded as individual programs.

Wyoming governor backs high Yellowstone snowmobile cap

Wyoming Gov. Matthew H. Mead (R) recommended July 18 that Yellowstone National Park allow up to 520 snowmobiles per day in the park, far above the maximum proposed by NPS.

As the comment period on a proposal for winter use in the park came to an end, Mead said the noise differential between the Park Service's preferred variable ceiling of 330 and his preference of 520 would prove insignificant. Mead prefers Alternative 6 and NPS prefers Alternative 7.

Said Mead in a letter to NPS Superintendent Daniel Wenk, "If the NPS had provided the data for each of the variable levels under Alternative 6, which it must do, the data would likely demonstrate that an entrance allowance of 350, 400, 450, or 500 snowmobiles per day would show the same modest impacts to soundscape as all entrance levels of Alternative 7."

Sen. John Barrasso (R-Wyo.) also rejected Alternative 7 and asked for a higher cap. Barrasso, who sits on the Senate subcommittee on National Parks, said, "The Park Service must stop this drive to eliminate public access, and instead recognize the significant progress that has been made to mitigate environmental impacts."

Wyoming governors, whether Democratic or Republican, and the Wyoming Republican Congressional delegation have consistently argued for substantial snowmobile use in Yellowstone.

The Park Service is moving quickly to complete a plan/EIS for winter use in the park and a formal regulation to carry out the plan. The park even proposed a regulation July 5, 13 days before the comment period ended on the plan/EIS.

Preferred Alternative Number 7 would authorize variable daily limits on the number of snowmobiles and snowmachines with as many as 330 snowmobiles on peak days and as few as 110 on slow days. The average would be 254 machines per day.

By comparison 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 who would prefer something closer to the 2004 limits of 720 machines.

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.

The park hosted six public hearings on the proposed plan/EIS with two in Wyoming, two in Montana, one in Colorado and one in Washington, D.C. The park intends to issue a final EIS, a decision, and a final rule before the start of the 2011-2012 winter season in mid-December.

For more information on the plan go to <http://parkplanning.nps.gov/yell>.

House panel orders FS to revise portions of OHV plans

The House Appropriations Committee opened up a three-pronged attack July 12 against Forest Service travel management plans that reduce off-highway-vehicle (OHV) use.

The committee was angered mostly by plans in national forests in California. It would forbid the implementation of plans there until the service analyzes additional routes for OHVs.

In committee language attached to a fiscal year 2012 appropriations bill (HR 2584) for the Interior Department and related agencies the Republican majority said, "Due to specific concerns related to all travel management plans in the State of California, the Committee includes language in Title IV General Provisions prohibiting the implementation of travel management plans in California until the agency completes additional analysis to include more routes."

In a second, more nebulous, attack the committee directed all national forests in the country, not just California, to rewrite plans where communities have complained about lack of input. The committee made the demand in bill language and not in the law itself.

Report language says, "The Committee has been informed by several communities that travel management plans did not properly include public and community input and needs. Where communities are dissatisfied with travel management plans, the Committee directs the Forest Service to revise these plans."

The committee didn't say how the Forest Service is to determine which plans the communities want revised.

Finally, and most specifically, the committee directed national forests in California to allow OHVs on maintenance level 3 roads. The service has forbidden OHVs to use those kinds of roads because it considers vehicular traffic unsafe.

The House committee disagreed, arguing that the service has (1) traditionally allowed OHVs on such roads and (2) state and local governments now allow OHVs on them.

"Therefore, the Committee directs

the agency to allow for mixed-use of off-highway vehicles on maintenance-level 3 roads consistent with state and local policy, except where there exists a documented and substantive traffic safety issue," said the report.

In a March 10, 2010, record of decision for the Shasta-Trinity National Forest travel management plan, Forest Supervisor J. Sharon Heyward said, "I understand that many publics desired more motorized mixed use routes, or asked that all NFTS routes be open to non-street legal OHVs. While I appreciate these comments, and agree that OHV use of existing Maintenance Level 3 roads has little environmental impact, I must also consider public safety in making this decision."

She continued, "The Forest Service evaluated Maintenance Level 3 routes considered for motorized mixed use for both probability and severity of a collision between street legal and non-street legal vehicles. If the probability or the severity of a collision was considered to be high, I elected not. . .to authorize motorized mixed use on those routes at this time."

Countered Brian Hawthorne, public lands policy director for the BlueRibbon Coalition, "The problem is of critical importance. A forest's travel plan is a system of interconnected roads and trails. Without being able to use sections of level 3 roads it cuts the OHV travel plan into pieces, hacking it up so as to make it literally unusable. You could say 'designed to fail.' . . .We don't know what else to do except search for a legislative solution."

The provision is based on a stand-alone bill (HR 242) introduced earlier this year by California Republican Reps. Wally Herger, Tom McClintock, Daniel Lungren and Kevin McCarthy.

House members may seek new FLREA fee audit from GAO

Rep. Scott Tipton (R-Colo.) is asking his Congressional colleagues to join him in petitioning the Government

Accountability Office (GAO) to conduct a new audit of the federal recreation fee program.

In a draft letter to GAO Tipton repeated the complaint of fee critics that federal land management agencies are using collected fees for purposes other than (1) managing the program and (2) improving facilities.

Said Tipton in the draft he would submit to Gene Dodaro, comptroller general of GAO, "Concerns have been raised that fees are being assessed which are not needed to pay for maintenance or services, but are instead excessive or consist largely of the cost of assessing the fees themselves."

Tipton intended to send the letter to Dodaro by July 15 but it is understood he has not been able to line up all the cosigners he wants, possibly because of the press of budget business. His office did not return our calls.

Critics of the fee program such as the Western Slope No-Fee Coalition have long raised concerns about the revenue sharing provisions of the Federal Lands Recreation Enhancement Act (FLREA) of 2004. In general the critics say the provision that returns 80 percent of collected fees to the collecting unit tends to corrupt the agencies.

The critics maintain that federal land management agencies - the Forest Service in particular - have gone overboard in collecting entrance fees to broad areas that include developed sites.

Kitty Benzar, president of the Western Slope No-Fee Coalition said of a GAO audit, "I am quite certain it will show that (the Forest Service and the Bureau of Land Management) are shifting fee program costs into other categories to hide the true cost of collection. The FLREA says that 'administrative, overhead, and indirect costs' can't exceed an average of 15 percent of gross, but I'm sure they are far in excess of that."

Benzar brought up another complaint of FLREA critics - fees

charged by private concessioners who operate under contract on Forest Service lands. "I would also hope the GAO will look into the Forest Service practice of exempting concessionaires from the FLREA altogether," she said. "Concessionaires are being allowed to charge fees that the Forest Service is prohibited from charging and are not required to accept federal recreation passes that the FS would be required to accept."

Benzar had been in negotiations with some representatives of the recreation industry on legislation to revise FLREA, but those talks have apparently broken down.

Derrick Crandall, president of the American Recreation Coalition, said the Forest Service concessioners and Benzar's group are too far apart right now, but the negotiations may resume this fall. "We are continuing a dialogue with the federal interagency fee committee that the Park Service sort of leads," he said. "By the time of the Partnership Outdoors Conference in 2012 we may be able to come to the meeting with the agencies and Kitty and present some actionable solutions."

The Partnership Outdoors Conference brings together federal land managers and the recreation industry to figure out ways to cooperatively managed federal recreation lands. A date for a 2012 conference has not been announced yet.

The fiscal 2011 administration budget projected that FLREA, authorized through December 2014, would produce in fiscal 2011 \$264.5 million, again with 80 percent retained by the agencies. The lion's share, \$173 million, would be collected by NPS, followed by the Forest Service with \$67.5 million, the Bureau of Land Management with \$18.7 million, the Fish and Wildlife Service with \$4.8 million and the Bureau of Reclamation with just under \$500,000.

In the last Congress four western senators - two from each party - introduced legislation (S 868) that would repeal FLREA. The four are Montana Sens. Max Baucus (D) and Jon Tester (D) and Idaho Sens. Mike Crapo

(R) and James E. Risch (R).

Repeal would not affect entrance fees to developed sites federal land managers charge under the Land and Water Conservation Act. It would, however, make these changes:

- * eliminate collection of "standard amenity fees" at developed sites that the 2004 law authorized for the Forest Service, BLM, and the Bureau of Reclamation,

- * eliminate retention of recreation fees by the agencies and return use fees to the U.S. Treasury,

- * cap entrance fees charged by NPS at \$25 for a single visit by car, \$12 by foot or bicycle, and \$40 for an annual pass (instead of \$15), although NPS would still retain old entrance fee authority,

- * eliminate a multi-agency American Passport and reinstate the old Golden Eagle and Golden Age Passports charged by the Park Service, and

- * increase the Golden Eagle passport fee from \$25 to \$65.

FS roadless rule draws attention in Colorado, Alaska

Sixty-nine conservation groups last week submitted a last-second pitch to Secretary of Agriculture Tom Vilsack, asking him to fully protect from road construction 4.2 million acres of roadless national forest in Colorado.

The groups object to exceptions included in an April 15 proposed rule developed by the Forest Service and the State of Colorado that would govern roadless national forests in the state.

The plan would protect 4.18 million acres of the 14.5 million acres of national forest in Colorado. The Forest Service said exceptions from bans on development include 20,000 acres that would be available to complement existing coal mining operations, unspecified acreage for timber thinning operations near the urban interface and unspecified acreage for water projects.

But the 69 conservation groups, including the Theodore Roosevelt

Conservation Partnership, are asking for greater protection for backcountry areas. Said the groups, "Without strong safeguards that conserve public lands backcountry, hunting and fishing opportunities could diminish, and, likewise, the economic vitality of the businesses and communities that rely on them could decline."

* ALASKA SITUATION: In a separate roadless area development Alaska's bipartisan Congressional delegation has introduced legislation to exempt the state's national forests from a 2001 roadless area protection rule issued by the Clinton administration.

Sen. Mark Begich (D-Alaska), the lead sponsor of the Senate bill (S 1357), said he was responding to a March 4 decision of U.S. District Court Judge John W. Sedwick in Alaska. Sedwick ordered the Tongass National Forest to be covered by the roadless rule.

Begich said subsequent agreements between environmentalist plaintiffs and the federal government that allow some activities in roadless areas don't go far enough in permitting economic development.

"(W)hat I have read of their settlement agreement doesn't offer any certainty that there won't be more challenges and delays," he said. Sen. Lisa Murkowski (R-Alaska) cosponsored his bill. Rep. Don Young (R-Alaska) has introduced a House bill (HR 2526).

The March 4 decision putting the Tongass back under the 2001 roadless rule adds another layer of legal uncertainty to the 2001 roadless area rule. Two other courts have issued competing rulings on its legality. On June 16, 2009, U.S. District Court Judge Clarence Brimmer in Wyoming held the Clinton rule illegal, but the Ninth U.S. Circuit Court of Appeals had earlier held the rule legal.

The ball right now is in the hands of the Tenth U.S. Circuit Court of Appeals, which is reviewing Brimmer's decision.

The State of Colorado and the

Forest Service formally proposed a roadless rule for the state April 15. The comment period ended July 14. The state has unsuccessfully proposed Colorado-only rules for five years under both Republican and Democratic administrations.

Some sportsmen's groups that had criticized earlier versions of a Colorado rule were somewhat supportive this time, although they still had objections. Harder-line environmental groups were not supportive.

When the proposed rule was published, Ted Zukoski, staff attorney for public interest environmental law firm Earthjustice, sharply criticized it. "The proposed Colorado roadless rule has damaging loopholes," he said. "It will allow 20,000 acres of our state's remaining wild forests to be scarred with bulldozers for coal mining, a dirty energy source."

The sportsmen's letter to Vilsack is at: http://www.trcp.org/assets/pdf/CO_Backcountry_Business_USDA_Sign-On_Letter.pdf

Notes

State LWCF grants allocated.

Secretary of Interior Ken Salazar himself announced July 19 the allocation of \$37.4 million in state Land and Water Conservation Fund (LWCF) grants for fiscal year 2011. The grants from the venerable program have helped state and local governments establish parks and recreation areas since 1964. Over the years Congress has appropriated more than \$3.8 billion to some 41,000 projects. However, the program is in trouble in Congress where the House Appropriations Committee July 13 approved no grants for fiscal 2012.

Wodder gets rough hearing.

Sen. James Inhofe (R-Okla.) July 19 called Rebecca Wodder, the Obama administration's nominee to set policy for the Park Service and the Fish and Wildlife Service, a "left-wing extremist." Inhofe is the ranking minority member on the Senate Environment and Public Works Committee, which held a hearing on Wodder's

nomination as assistant secretary of Interior for Fish and Wildlife and Parks. Forty House Republicans said Wodder's work as president of the American Rivers environmental group cast doubt on her independence. "We seriously question whether she could adequately represent broader and more balanced interests at the federal level, especially at a fragile economic time with national unemployment exceeding nine percent," the House members wrote in a letter to committee senators. Said Inhofe, "As CEO of American Rivers, which works actively to shut down energy production in the United States, she was a staunch supporter of the Clean Water Restoration Act," he said. "She also aggressively promoted the federal regulation of hydraulic fracturing - a practice that is efficiently and effectively regulated by states and is crucial to our economic recovery and energy security." Wodder served most recently as president

Ski bill moves ahead. Both the Senate Energy Committee and the House Natural Resources Committee have now approved legislation that would authorize non-skiing activities in ski resorts on national forests in the off-season. The Senate panel approved its bill (S 382) July 14. Sen. Mark Udall (D-Colo.) is the lead sponsor. The House Natural Resources Committee approved its bill (HR 765) June 15. Rep. Rob Bishop (R-Utah) is the lead sponsor. Because House committee leaders insist they will not support an omnibus lands bill this year the measure may well have to move on its own to be enacted. That lengthens the odds against passage because it only takes a "hold" from one senator to prevent a bill from reaching the Senate floor. The bill would make clear what uses ski resorts may and may not provide on federal lands in the off-season. The ski industry asked Congress to provide specific authority so member resorts could offer additional services in the summer.

Salazar nominates U.N. heritage areas. Secretary of Interior Ken Salazar July 13 nominated a collection of Frank Lloyd Wright buildings and pre-historic earthworks at Poverty Point

in Louisiana to the United Nations' World Heritage List. Only the greatest sites in the world make it on to the list and only then after a rigorous review by the World Heritage Committee, made up of representatives from 21 nations. If all goes as planned, the two sets of sites could make it onto the list in 2014. Salazar nominated 11 Frank Lloyd Wright properties in a collective set for inclusion. Wright of course was an influential architect. Poverty Point State Historic Site and National Monument in Louisiana contains prehistoric earthworks constructed 3,100-3,700 years ago. The Interior Department said it "may be the largest hunter-gatherer settlement that ever existed."

Manhattan Project a park? The Interior Department last week sent Congress the results of a Park Service study that recommends the designation of a Manhattan Project National Historical Park. The multi-site park would preserve three locations where the research and development that led to the construction of the atomic bomb occurred. They are Los Alamos, N.M.; Hanford, Wash.; and Oak Ridge, Tenn. The sponsors of the legislation in 2004 that led to the Park Service study were none other than the chairmen of the two committees to whom the study was referred - Sen. Jeff Bingaman (D-N.M.) of the Senate Energy Committee and Rep. Doc Hastings (R-Wash.) of the House Committee on Natural Resources. The Manhattan Project ran from December 1942 until September 1945, employed 130,000 people at its peak and cost \$2.2 billion. The Department of Energy would retain management of the sites. The study estimates annual operating costs between \$2.45 million and \$4 million. In addition a management plan would identify possible land acquisition at Los Alamos. So that will present a tough political decision to Hansen and his budget-cutting allies. The National Parks Conservation Association endorsed the proposal and emphasized the moneymaking prospects for an historical park. "Creating three different units of this park. . . will likely stimulate these local economies," said Sean Smith, policy director for the National Parks Conservation Association.

Yellowstone visitation down.

Yellowstone National Park said recreational visitation is down by 11 percent for the first six months of 2011, compared to 2010. Last year through June the park had received 1,053,801 visits. This year it received 941,723. However, the big visitation months of July and August still lie ahead. Despite the drop, the park said this is the fifth most visitation it has ever recorded at this point in the year.

NPCA honors senators, Reps.

The National Parks Conservation Association (NPCA) named 57 senators and 179 House members as a Friend of the National Parks because of their voting records. In the Senate NPCA examined six key votes and presented the award to any senator who voted "right" four or more times. In the House NPCA examined 12 key votes and presented the award to any House member who voted right seven or more times. The full list of the 57 senators and 179 representatives who received NPCA's award is at http://www.npca.org/park_policy/friend-award.html.

House gets battlefield bill.

Rep. Rush Holt (D-N.J.) and four of his colleagues introduced legislation (HR 2489) last week that would authorize the Park Service to acquire old battlefields. The measure, a counterpart to a Senate bill (S 779), would authorize NPS to spend up to \$10 million each year to buy Civil War battlefields and up to \$10 million each year to acquire Revolutionary War and War of 1812 battlefields combined. The authorization would last through fiscal 2022. The Senate Energy Committee held a hearing on S 779 May 11. One of the cosponsors of the House bill, Rep. Jeff Fortenberry (Neb.), is a Republican. Sen. Charles Schumer (D-N.Y.) is the lead sponsor of S 779. Like all such bills, the future of this measure may lie in the development of an omnibus lands bill.

Overflight bill delayed again.

The House July 20 approved legislation (HR 2553) July 15 that for the 21st time would keep the Federal Aviation Administration (FAA) in business while the House and Senate attempt to write a new authorization bill. A House-passed version of a multi-year authorization

bill and a Senate-passed version of a multi-year bill include very different provisions for regulating air tours over national parks. The sponsor of the extension bill, House Transportation Committee Chairman John Mica (R-Fla.),

said the House and Senate were making "progress" in their negotiations, except for a key issue on allowing labor unions to attempt to unionize shipping companies.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Appropriations fiscal 2012 No bill number yet	(Interior, etc.) House committee approved July 12. Floor next week?	Would reduce grant programs sharply, land management agency less so.
Appropriations fiscal 2012 HR 2112 (Kingston)	(Agriculture) House approved June 16.	Would reduce conservation spending by \$1 billion.
Appropriations fiscal 2012 HR 2018 (Frelinghuysen)	(Energy and Water) House approved July 15.	Would block issuance of wetlands permit guidance.
Appropriations fiscal 2012 No bill yet	(Transportation) No committee action yet.	Committee spending cap would reduce spending by \$7.7 billion.
Budget fiscal 2012 H Con Res 43 (Ryan) (No Senate bill yet)	House approved April 15.	Would reduce spending overall but keep natural resources level.
Appropriations 2011 CR Omnibus HR 1473 (Rogers)	President signed into law April 15 as PL 112-10.	Reduces spending across the board compared to fiscal 2010, sometimes substantially. Includes Interior, Energy and Water, Agriculture and Transportation bills.
LWCF (guaranteed funding) S 1265 (Bingaman)	Bingaman introduced June 23.	Would guarantee full funding of LWCF each year without appropriations action.
LWCF (fed lands access) S 901 (Tester)	Tester introduced May 5.	Would allocate 1.5 percent of LWCF for access to fed lands for rec.
Urban parks HR 709 (Sires)	Sires introduced February 15.	Would provide \$450 million per year to rehabilitate urban parks.
Roadless areas HR 1581 (McCarthy) S 1087 (Barrasso)	McCarthy introduced April 15. Barrasso introduced May 26.	Would reverse Clinton roadless rule, block Salazar 'wild lands' policy, release FS and BLM roadless areas.
National monuments HR 302 (Foxx) HR 758 (Herger) S 407 (Crapo)	Foxx introduced January 18. Herger and Crapo introduced February 17.	Would require state approval of any national monument under Antiquities Act. Herger, Crapo would require Hill approval within two years.
California Desert monument S 138 (Feinstein)	Feinstein introduced January 25.	Would designate a Mojave National Monument and protect 1.6 million acres.
National parks overflights HR 658 (Mica) S 223 (Rockefeller)	House approved April 1. Senate approved February 17.	House tilts towards tour operators and Senate tilts more toward protection.
Ski areas HR 765 (Bishop) S 382 (Udall)	House committee passed June 15. Senate panel approved July 14.	Would have FS allow year-round rec activities in ski resorts.