

# Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Celina Richardson

Volume 28 Number 17, September 10, 2010

*In this issue. . .*

**Government shutdown in 2011?**

*GOP takeover could lead to closure of fed rec areas. But thus far GOP focus is on health law . Page 1*

**Teams begin shaping AGO report.**

*EPA in charge of rec recommendations. Treasured landscapes still a major flash point .. Page 2*

**LWCF supporters hopeful in Senate.**

*Alliance lobbied this summer. Sen. Burr support may aid .. Page 4*

**Rec users fear FS planning aims.**

*Say FS appears to want to make rec pay to support itself .. Page 5*

**Gettysburg casino splits backers.**

*Trust opposes facility, but local preservationists support ... Page 7*

**Hill interest in NPS Centennial.**

*Both GOP and Dems reportedly looking at money sources ... Page 8*

**Nothing scheduled on money bill.**

*Approps committee may be forced to begin temporary CRs ..... Page 9*

**Obama proposes roads stimulus.**

*Might act as down-payment on a longer transportation law .. Page 10*

**EPA won't act on lead ammo.**

*Says it has no jurisdiction. Is banned in duck hunting .. Page 11*

**WRDA bill struggles to get moving.**

*Little GOP support because of cost, mostly Dem projects .. Page 12*

**Notes** ..... Page 13

**Conference calendar** ..... Page 14

## Worst case, election could lead to another shutdown

If the November 2 elections go the way some political forecasters predict, federal park and rec programs could be closed down again, as they were in the Clinton years.

If Republicans take over the House and Senate, and there is an increasing likelihood of that, some of their supporters are demanding a government shutdown similar to one in 1995-1996. That one grew out of a budget dispute between the Republican House and President Clinton. That shutdown was pretty much across-the-board.

This time a shutdown may be more tightly focused. Republicans have thus far targeted just a new health care law and an appropriations bill for the Department of Health and Human Services that pays for it. So, if there is a government shutdown, it would be limited to health and welfare, education and labor programs.

We are not there yet of course, and there is a chance the Democrats will retain their majorities in the House and Senate. Seven more weeks remain until the election and a lot can happen in that time.

But at the moment pollsters agree momentum tilts to the Republicans in the House. With 218 seats needed for control the pollsters say that Republicans either hold or are favored to hold about 205 seats, Democrats about 195 seats and a toss-up for 35 seats.

In the Senate the forecast is just as tight but with Democrats slightly favored. The breakdown has voters tilting Democratic in 48 seats, Republican for 45 seats and seven up for grabs. Included among the toss-ups is Senate Majority Leader Harry Reid (D-Nev.)

But in both Houses pollsters say the momentum is all with the Republicans.

The 1995 shutdown of the federal government extended from Nov. 14, 1995 through Nov. 19, 1995, and from Dec. 16, 1996 to Jan. 6, 1996. During that time most federal land management employees were laid off, with only a skeleton force of "essential" employees in place to protect parks and other lands.

Short of a government shutdown, what can park and recreation programs expect if the Republican Party regains control of the House and Senate? For starters programs that hope to survive should enjoy support from both political parties. Said one veteran lobbyist, "Whether there is a Democratic majority in the House or Senate, it will clearly be a Congress where things will happen only when interest groups make it attractive to both parties."

The best example is the upcoming Park Service Centennial in 2016. Both the Republican Bush administration and the Democratic Obama administration have provided substantial money for the national parks and the Centennial, and that precedent may continue. (*See related article page 8.*)

On the appropriations side, other than for the Park Service, the outlook under either Democrats or Republicans is for major spending cuts. The Obama administration has already called for a freeze on domestic discretionary spending for the next few years and Republicans promise to be even tougher. The template there is Rep. Paul Ryan's (R-Wis.) manifesto that calls for a 50 percent reduction in domestic spending over the next 10 years.

Republicans and Democrats in July debated outdoor spending during consideration of a fiscal year 2010 Interior and related agencies spending bill in a House appropriations subcommittee. The committee was working under a \$32.2 billion spending ceiling, the same as fiscal 2010. However, that is still \$4.6 billion more than the fiscal 2009 spending cap of \$27.6 billion.

Rep. Jerry Lewis (R-Calif.) said the House ceiling was too high. "This bill has grown by over \$6 billion in the last three years," he said. "Of course that doesn't even count \$11 billion in stimulus funds last year." He faulted "the remarkable acceleration of spending for a bill this size over so short a time."

But Rep. Norman Dicks (D-Wash.), former chairman of the subcommittee, said the ceiling was reasonable. "Between 2000 and 2008 Interior was cut by 16 percent, EPA was cut by 29 percent and the Forest Service was cut by 35 percent," he said. "So these bills have been in a catch-up mode. This isn't reckless spending by any stretch of the imagination. Thank goodness we did get a generous allocation in 2010 because many of these programs - wildlife refuges, our parks - were in serious trouble and we had to restore them."

As for on-the-ground programs such as motorized recreation the Obama administration will be in charge for the next two years no matter what. So federal land management policy should continue as is.

## **Outdoors initiative being shaped by federal teams**

Federal officials who are overseeing President Obama's America's Great Outdoors (AGO) Initiative have divided up into teams to begin the hard work of writing recommendations for the President and Congress.

EPA, of all agencies, is leading a recreation team, and that does not please all interests. For one thing some participants fear that a controversy over an allegedly secret plan to designate national monuments is intimidating the team.

"They don't want to be seen as a team that is being run by environmental groups in camera with the administration," said Derrick Crandall, president of the American Recreation Committee. "They are trying to keep at arm's-length with interest groups and only consulting

with federal officials."

Crandall said that at some point the administration must consult with the recreation establishment. "I've been through three national recreation commissions," he said. "It's great to listen to the public, but at some point they must listen to the Great Truth people who have been at this for awhile."

The game plan now is for the six task forces to complete first drafts of recommendations by Wednesday (September 15.) Final drafts are to be completed the first week in October and final recommendations delivered November 15. The Council on Environmental Quality is coordinating the administration program.

Thus far, the administration has held more than 23 listening sessions around the country and received thousands of recommendations at the AGO website, <http://www.doi.gov/americasgreatoutdoors/>.

Administration officials are making no bones about their desire to protect the nation's great natural treasures. As Will Shafroth, deputy assistant secretary of Interior for Fish, Wildlife and Parks, said at a September 2 listening session in Bangor, Me., "From the shorelines to the mountains in Maine, the beauty and recreational opportunities for visitors and residents alike are endless. We must take advantage of these natural treasures if we are to build a stronger connection to the great outdoors that will last for generations to come."

Interest groups are in full speculation mode. The BlueRibbon Coalition, which represents powered recreation interests, last month published an update that anticipates the AGO will produce a big lands bill and more top down management of recreation from the White House.

"There seem to be two key goals in the American's Great Outdoors Initiative," said the coalition. "One is to facilitate another omnibus public lands bill and the other is to increase White

House involvement in the Departments of Interior and Agriculture's activities."

The coalition says that federal land managers hunger for climate change money. "The agencies are literally salivating at the prospect of this new source of tax dollars," said the coalition. And at obtaining full funding for the Land and Water Conservation Fund.

Off-road vehicles users, which the BlueRibbon Coalition represents, have been out in force at the listening sessions, much to the dismay of environmental groups such as the Sierra Club.

The club said in a recent bulletin that when Nancy Dess, a psychology professor from Occidental College in Los Angeles, talked about the health and social benefits of the outdoors on an online AGO forum, "she found that it was quickly demoted because the forum was dominated by off-road enthusiasts pushing for more off-road access on public lands and limiting wilderness protections."

After the Sierra Club publicized Dess's experience, said the club bulletin, "the tide turned as thousands of you visited the Great Outdoors site and tipped the balance toward the conservation side."

President Obama kicked off the America's Great Outdoors initiative at a White House conference April 16 and ordered his cabinet heads to go out into America and report back to him by November 15 on content. The administration under the lead of the Council on Environmental Quality will have its hands full trying to come up with a conservation consensus after the listening sessions. Citizens have focused on everything from a demand for guns to broad conservation agendas.

Instead of beginning the initiative with a set of concrete proposals the administration said it would listen to interest groups and the American people first. If and when the initiative is fleshed out, insiders believe it could include:

- \* full funding for the Land and Water Conservation Fund,
- \* revitalization of the National Park System in time for its 100<sup>th</sup> Anniversary in 2016,
- \* the designation of a number of national monuments on Bureau of Land Management land,
- \* an omnibus public lands and parks bill (as is in the works now in Congress), or
- \* all of the above.

Private property rights groups such as the American Land Rights Association fear that the America's Great Outdoors Initiative is a smokescreen for a campaign to designate national monuments on federal land. And an aide to an administration critic Rep. Doc Hastings (R-Wash.) told us in April that monuments recommendations are a likely result of the initiative. Hastings is the ranking Republican on the House Natural Resources Committee.

## Supporters hopeful about Senate support for LWCF

Despite an uncertain future in the Senate, supporters lobbied intensely during the summer on behalf of legislation to lock in funding for the Land and Water Conservation Fund (LWCF.)

The supporters are optimistic, if realistic, about their chances. "LWCF has solid bipartisan support," said Alan Rowsome, who handles budget issues for The Wilderness Society. "It's pretty obvious there is a lot of interest in getting this done."

The supporters are allied in a Land and Water Conservation Fund Coalition ([lwcfc coalition.org](http://lwcfc coalition.org)) that includes conservationists, state and local officials, and the recreation industry.

The LWCF provision is attached to an energy bill (S 3663) that responds to the Gulf oil spill, but support for S 3663 is waning as the Gulf crisis fades from the headlines. And as President Obama's political fortunes have dwindled.

On the other hand the House ap-

proved a more comprehensive energy bill (HR 3534) that would guarantee money for LWCF for the next 30 years. So if the Senate approves any kind of energy bill, at some point this fall (perhaps after the November 2 election) a House-Senate conference committee could patch together a final bill with LWCF money.

Rowsome said that while there is support for LWCF, there is not necessarily a clear avenue for Congressional action. "The question is where, when and how," he said. "The most likely scenario is we'll push for action over the next three weeks, but more likely Congress will wait until a lame-duck session after the (November 2) elections."

Sen. Richard Burr (R-Calif.), ranking Republicans on the Senate subcommittee on National Parks, is the lead Republican supporter. He has spoken out in favor of the LWCF legislation in committee, and has cosponsored a stand-alone Senate bill (S 2747) that would provide LWCF with guaranteed funding. Other Republicans have spoken favorably of LWCF in the past, such as Sen. Lamar Alexander (R-Tenn.) But they have been more muted this time around. Sixteen Democrats have cosponsored S 2747.

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

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

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

THE SENATE BILL: The Senate measure is more complex than the House bill. After five years of guaranteed full funding S 3663 would guarantee only \$500 million in fiscal 2016. It would then remove the guarantee from fiscal years 2017 through 2020, subjecting LWCF to appropriations. But beginning in fiscal 2021 it would again guarantee \$500 million per year.

A Senate Energy Committee staff member said the provision is convoluted to comply with Senate budget guidelines. Asked why the erratic allocations, the staff member said, "The quick answer is the funding levels were the maximum available without running into budget issues. For example, maximum direct spending in any 10-year period is limited to \$5 billion, which works out to \$500 million per year. We decided to front-load the initial 10-year period, which is why the first five years are fully funded."

FISCAL 2011 APPROPRIATION: In a closely related development the House subcommittee on Interior appropriations July 22 approved a \$518 million appropriation for LWCF for fiscal year 2011, or \$68 million more than a fiscal 2010 appropriation of \$450 million. (The subcommittee number is \$72 million less than the administration request of \$590 million, largely because it would not fund a \$42 million acquisition by the Bureau of Land Management to store excess wild horses in the Mid-West and East.) Out of the \$518 million for LWCF, \$55 million would go to the state side of LWCF.

The Land and Water Coalition counts more than 60 members, including most major environmental groups, the National Association of State Park Directors, the National Recreation and Parks Association, the National Parks Conservation Association, and the Outdoor Industry Association, among others.

## **Rec users fear they will be hammered in new FS planning**

Recreation users of the public lands are becoming increasingly concerned that the Forest Service will use

a new planning rule to force users to pay for rec programs.

The users cite a phrase in a draft Forest Service planning document called "Recreation Approach" that talks of "(ecologically and fiscally) sustainable recreation."

"The Forest Service has been moving for years toward getting out of the recreation business by contracting everything possible out to concessionaires and closing down the rest," said Western Slope No-Fee Coalition President Kitty Benzar. "That's reflected in the fact that recreation was not even on the agenda at the planning rule revision meetings until the participants forced them to address it."

She added, "The public is routinely referred to in agency documents as customers, not owners. The Planning Rule meetings have exposed a deep seam of distrust of the Forest Service, because they have sold out our public lands."

Recreation interests have long fought off critics who said that public lands recreation fees don't cover a fraction of the costs of operating and maintaining facilities. The critics, including commercial users of the public lands and their Congressional allies, note that commodity users such as the oil and gas industry pay hundreds of millions of dollars in royalties and miscellaneous fees every year. And effectively subsidize recreation.

On the other hand no less an administration official than Secretary of Agriculture Tom Vilsack is vigorously promoting the economic benefits of Forest Service recreation. In July he praised a new report that says Forest Service recreation generates about \$13 billion per year in expenditures in communities within 50 miles of national forests.

Added Vilsack, "Those dollars in turn in rural communities generate another \$14.5 billion in economic activity sustaining over 223,000 jobs."

The fiscal year 2010 appropriation

for Forest Service recreation was \$285.1 million. The House subcommittee on Interior and Related Agencies approved a fiscal 2011 appropriation of \$296 million.

The battle over the economics of recreation in the national forests will almost certainly be joined anew as the Forest Service prepares a new planning rule. After receiving 26,000 comments on a notice of intent to prepare a rule and holding 40 meetings the service said it has begun to draft a new rule. The draft should be on the street by the end of the year.

Meanwhile, the Forest Service team that will write the planning rule has been posting frequent notices about how it will approach the task. For instance, on July 23 the service issued the broad, one-page "Recreation Approach" paper.

In general interest groups in their comments hit on a few recurring issues, such as how to cope with climate change, how to insure viability of a wide range of species, and the advisability of reviewing non-national forest lands in planning.

An "all-lands" approach that assesses uses on adjacent non-national forest territory is viewed with suspicion by some rec users. For instance, the Stewards of the Sequoia in widely distributed comments last month worried the service is biting off more than it can chew.

"Since the Forest Service currently has trouble completing Local Forest Plans due to the large amount of land already involved it is reasonable to assume that planning for an even larger land areas and one owned by others, will be more onerous, time consuming and complex," Chris Horgan, executive director of Stewards, wrote the planners.

But the Arizona Department of Fish and Game said that the service should at least look at other lands. "Checkerboard land ownership cannot be ignored in forest plans," wrote Daniel E.

Nelson, a project evaluation specialist in the Arizona Game and Fish Department. "Forest plans should influence and tier to general plans from local governments."

Nelson also recommended that the Forest Service adopt one model Travel Management Rule for all forests. "Consistency is needed across Forests;" he wrote. "We cannot have different rules applying to different forests. For example in Arizona, there will be a different Travel Management Rule across all national forests, with different rules across districts within forests."

Almost all commenters have called for a simplified planning process. The Stewards of the Sequoia said that federal courts have said that past iterations of planning rules were too complicated. Said the recreationists, "The court has repeatedly found the Forest Planning Rule to be too complex and asked that it be streamlined. How do adding requirements to our National Forests plans such as Stressors, Climate Change and Lands outside the National Forests reduce the Complexity of Streamline the Plan?"

"Stressors" in the Forest Service's planning framework refers to activities that cause stress on resources.

The National Association of Counties also put in a plug for a streamlined planning system. It wrote the Forest Service, "Under the old rule the planning process took so long that effective public participation by the affected county governments was prohibitively complex and resulted in extreme 'process-fatigue' without yielding commensurate benefits. A streamlined process should go a long way to enabling local government partners as well as members of the general interested public to meaningfully participate throughout the development of a new forest plan."

The National Forest Counties and Schools Coalition recommended that the Forest Service adopt the Bureau of Land Management's standard practice of including local governments as cooperating

agencies. Said the coalition, "The new USFS Planning rule should clearly state that the USFS will actively encourage and support entities of local government applying for cooperating Agency Status as a means of involving them proactively as early in the planning process as possible."

BACKGROUND: As required by the National Forest Management Act of 1976 (NFMA) the Forest Service has since 1976 prepared 127 forest plans to guide land uses in 155 national forests and 20 grasslands (some plans cover more than one forest and/or grassland.) Under NFMA forest plans are to be revised every 15 years. However, the agency said dozens of the existing plans are overdue for revision because they should have been rewritten between 1998 and now.

While the Forest Service prepares the new rule it will use a 2000 Clinton administration rule to guide planning by individual forests. However, that 2000 rule also allows forests in turn to use a 1982 rule. The 1982 rule may be the choice of most forests because the 2000 rule was so complex, the agency said.

The Bush administration struck out twice in trying to write a master-planning rule. On January 5, 2005, it completed a first set of regulations, without preparing an EIS. And on April 21, 2008, it tried again with a perfunctory EIS. Two federal judges held separately that the Forest Service failed to adequately evaluate the environmental impacts of the rules.

## Not all preservationists oppose Gettysburg casino

A proposed gambling casino a half-mile from Gettysburg National Military Park is dividing preservation groups.

The National Trust for Historic Preservation opposes the proposed \$75 million resort that would be built in a converted Eisenhower Hotel and Conference Center in Adams County, Pa. The trust says the casino would "conflict" with the purpose of the military park.

But the oldest Civil War preservation group in the nation, the Gettysburg Battlefield Preservation Association, endorsed the project last month. "We find, after very thorough review, that the proposed Mason-Dixon Resort project does not represent a preservation issue," said Brandan Synnamon, association president. "The property site under discussion played no significant role in the three-day engagement."

This is the second go-round for project applicant Dave LeVan, a local Harley-Davidson merchant. In 2005 he proposed a much larger casino (3,000 slots compared to 500 in the new facility), but it was defeated by the Pennsylvania Gaming Control Board.

This time four applicants in the State of Pennsylvania are competing for one casino license from the gaming board. The board is conducting hearings around the state and intends to make a decision before the end of the year. The most recent hearing was held September 1 at Gettysburg.

The proposed Gettysburg facility, called Mason-Dixon Resort & Spa, would be located in a 300-room, first-class hotel, said Devan. "Mason-Dixon" because the facility would be located two miles from the Maryland border. In addition to 600 slot machines the facility would have 50 table games. Devan, who has reportedly contributed \$4 million to preservation projects in Gettysburg and other sites, said the project would create as many as 10,000 jobs.

"In 2006, the unemployment rate in Adams County was among the lowest in the state at 3.4 percent," Devan said at his website, "Three years later, the county's unemployment rate has more than doubled to 7.4 percent, while the gaming industry has helped its host communities with thousands of jobs and millions of dollars for economic development and tax relief." *The website address is: <http://www.masondixongamingresort.net/>,*

But critics say the casino could do as much harm to the local economy as good. "Marketing a casino so close to

Gettysburg would conflict with and detract from its unique and compelling history, and its proven economic engine - heritage tourism," said Stephanie Meeks, president of the National Trust for Historic Preservation.

Preservation groups that agree with the Trust say the Gettysburg Park brings in more than \$91 million per year in tourist spending and supports more than 2,300 jobs. They presented more than 30,000 signatures to the gaming board in opposition to the project. Among the opponents are filmmaker Ken Burns, author David McCulloch and President Eisenhower's granddaughter, Susan Eisenhower.

But the Gettysburg Battlefield Preservation Association played the economics card. "The Board of Directors of the GBPA regard the proposed project as a local issue," said Synnamon. "The board is aware that the economy of the Gettysburg area and Adams County is hurting. We need jobs. We need more private investment. We could use additional visitation. The Mason-Dixon Resort offers all these things and would do so without one square inch of battlefield or nearby undeveloped open space being developed."

## **Rumblings on the Hill in support of NPS Centennial**

Despite the giant fissure separating Republicans and Democrats, there is a chance, however slim, the two sides will come together on a new program to prepare the national parks for their 100<sup>th</sup> birthday in 2016.

As an opener Rep. Raúl M. Grijalva (D-Ariz.), chairman of the House subcommittee on National Parks, intends to hold a hearing this fall on new investment opportunities for the parks, perhaps outside federal appropriations.

An aide to Grijalva confirmed this week the subcommittee plans to hold at least one hearing on the issue.

The office of the ranking Republican on the subcommittee, Rep. Rob Bishop

(R-Utah), is also reportedly interested, did not respond to our queries.

But said one source who has talked to both Congressmen, "They want to look into what kinds of things friends groups can do, not just philanthropy. They want to look at the benefits contributors have made to places like Fort Monroe and Presidio."

Both Grijalva and Bishop were active during the Bush administration in support of Centennial Challenge legislation that would have matched \$1 billion in private contributions with \$1 billion in federal money to prepare the parks for its Centennial.

In 2007 Grijalva was a lead sponsor of a Democratic bill that would have taken \$100 million per year in fees out of the hide of commercial users of the public lands to match private grants. The bill did not specify what commercial operations should be assessed fees.

The Bush administration promoted legislation that would have used \$100 million per year in automatic, guaranteed appropriations. Bishop was the lead sponsor. Neither bill went anywhere in the last Congress.

Grijalva's aide said his boss has no interest in the Bush administration/Bishop bill. "We're looking to revive our legislation (not the Republican version) on this," he said.

Interest groups have not been idle. They have their eyes on President Obama's America's Outdoors Initiative. On July 22 the National Park Foundation and the National Parks Conservation Association wrote conservation leaders and asked them to participate in a new Centennial steering committee.

The invitation said that organizations could "advocate on (the Centennial's) behalf as a part of the Administration's America's Great Outdoors (AGO) initiative."

The July 22 letter was cosigned by Tom Kiernan, president of the National Parks Conservation Association, and Neil



Mulholland, president of the National Park Foundation. Kiernan and Mulholland asked the invitees to indicate a good date for a conference call on August 2, 5 or 6.

The sponsors say they intend to draft a sample recommendation that can be submitted to the America's Outdoors Initiative and be included in the initiative's report in mid-November.

In 2007 then Secretary of Interior Dirk Kempthorne launched the Centennial Initiative as a \$3 billion, two-part effort. One part would spend \$1 billion to upgrade the core operations of the national parks in time for the centennial. Congress has largely provided the parks with down payments on that money over the last three years.

The other part of the initiative would consist of a Centennial Challenge to make non-core improvements to the national parks. The Challenge would have had Congress put up \$100 million per year to be matched by \$100 million in private contributions, for a total of \$200 million per year. While Congress has approved some seed money for the effort in appropriations bills, it has not authorized a standing program.

The National Parks Hospitality Association (NHPA) has been promoting a plan that would use franchise fees to improve the parks. That plan, which was presented to the House Appropriations Committee in April, would use extra money from the fees to encourage visitation from people of color and urban Americans.

A variation of that idea would allocate a portion of franchise fees to a National Park Investment Trust. The federal government could then sell bonds to improve the parks and the franchise fee money could secure debt service.

## **Nothing scheduled on money bills; CR season is coming**

House and Senate Appropriations Committees have no immediate plans to write up fiscal year 2012 appropriations

bills before the fiscal year ends September 30.

In fact, we understand that a temporary continuing resolution (CR) to keep the government going is in development. The CR is of a yet-to-be determined length. More than likely, the House and Senate will use a CR to extend existing spending levels until after the November 2 elections.

The House subcommittee on Interior appropriations approved its version of a bill July 22 but the measure has not moved since. An aide to subcommittee chairman James Moran (D-Va.) said this week there "no news" about a possible committee mark-up.

The Senate subcommittee on Interior appropriations is reportedly ready to begin marking up, but is stymied by a dispute over climate change regulations. Senate Republicans may have enough Democratic votes in hand to add an amendment to the bill that would prevent EPA from issuing climate change regulations, forcing Democrats to postpone action on a bill. However, subcommittee chairman Dianne Feinstein (D-Calif.) said she is prepared to move.

A Senate Appropriations Committee staff member, as committee staffers always do, said this week the committee intends to mark up all bills this month.

After the November elections the game plan calls for a last attempt to write a jumbo, stripped-down appropriations bill. If that fails - and the chances are good - Congress may simply extend fiscal 2010 spending levels through the next fiscal year.

In other money bills:

**ENERGY AND WATER:** The full Senate Appropriations Committee approved this bill (S 3635) July 22 that finances the Corps of Engineers and the Bureau of Reclamation. The House subcommittee on Energy and Water Appropriations approved a counterpart bill (no number) July 15.

**TRANSPORTATION:** The full Senate Appropriations Committee approved this

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

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

**INTERIOR BILL NUMBERS:** Here are a few of the numbers we have been able to obtain that are in the House subcommittee on Interior version of a fiscal 2011 money bill:

\* **STATE LWCF:** an increase of \$10 million, or \$50 million compared to a fiscal 2010 appropriation of \$40 million;

\* **STATE WILDLIFE GRANTS:** no change, or \$90 million compared to a fiscal 2010 appropriation of \$90 million;

\* **FEDERAL LWCF:** an increase of \$106 million, or \$384.1 million compared to a fiscal 2010 appropriation of \$277.9 million;

\* **URBAN PARKS AND RECREATION RECOVERY:** no money, the same as fiscal 2010;

\* **FOREST LEGACY:** an increase of \$23.7 million, or \$100.1 million compared to a fiscal 2010 appropriation of \$76.5 million;

\* **HISTORIC PRESERVATION STATE GRANTS:** no change, or \$46.5 million compared to a fiscal 2010 appropriation of \$46.5 million;

\* **SAVE AMERICA'S TREASURES:** a decrease of \$25 million to nothing, from a fiscal 2010 appropriation of \$25 million;

\* **NPS OPERATIONS:** an increase of \$35.3 million, or \$2.297 billion compared to a fiscal 2010 appropriation of \$2.262 billion;

\* **NPS CONSTRUCTION:** a decrease of \$44.6 million, or \$195.2 million compared to a fiscal 2010 appropriation of \$239.8 million;

\* **NPS RECREATION AND PRESERVATION:** a decrease of \$17.4 million, or \$51 million compared to a fiscal 2010 appropriation of \$68.4 million;

\* **PARK SERVICE CENTENNIAL CHAL-**

**LENGE:** a decrease of \$5 million from \$10 million in fiscal 2010 to \$5 million;

\* **FOREST SERVICE RECREATION:** an increase of \$8 million, from \$285.1 million in fiscal 2010 to \$293.2 million;

\* **FOREST SERVICE TRAILS:** a decrease of \$2.3 million, from \$85.4 million in fiscal 2010 to \$83.1 million;

\* **FS LEGACY ROADS AND TRAILS:** a decrease of \$39.6 million, from \$90 million in fiscal 2010 to \$50.4 million;

\* **BLM RECREATION MANAGEMENT:** essentially the same, or \$68.1 million compared to a fiscal 2010 appropriation of \$68.4 million; and

\* **FWS REFUGE MANAGEMENT:** a decrease of \$3 million, or \$500 million compared to a fiscal 2010 appropriation of \$503 million.

## **Obama seeks road stimulus money, emphasizes livability**

President Obama this week called on Congress to approve a \$50 billion transportation stimulus program that includes investments for livability projects.

The administration and some Democrats are promoting livability projects, such as trails and open space, as a substitute for highway construction.

The administration said the \$50 billion would constitute a down payment on a new, multi-year surface transportation program. The \$50 billion would be divided among highways, railways and runways by an Infrastructure Bank.

At least some of the money may come from increased taxes on the oil and gas industry. The seed money would be mixed with private money, the theory goes, and be spent by the Infrastructure Bank.

Because Congress intends to be in session this fall for less than a month, any serious consideration of legislation will almost surely have to wait for a lame-duck session after the November 2 elections.

Given the sour mood of the electorate the proposal is not given much of

a chance. The ranking Republican on the Senate Environment and Public Works Committee, Sen. James Inhofe (R-Okla.), predicted the proposal would fail. He also blasted the livability initiative, calling it a "lot of liberal stuff." Inhofe said livability would help urban areas at the expense of rural areas.

The ranking Republican on the House Transportation Committee, Rep. John Mica (R-Fla.), said that the administration should first spend surface transportation money included in an \$862 billion economic stimulus law last year. "While proposing to spend more on infrastructure in another stimulus effort may sound like the Administration is doing something about jobs, in fact only 32 percent of the infrastructure funding approved 18 months ago in the first stimulus has been spent," he said. "Projects continue to be bogged down by bureaucracy and red tape."

In an odd note the White House, which has opposed a six-year surface transportation law because of its expense, on September 6 turned around and promoted a multi-year law. "If we are to enjoy the benefits that come from a world-class transportation system, Congress must enact a long-term reauthorization that expands and reforms our infrastructure investments and returns the transportation trust fund to solvency," the White House said in a fact sheet.

The House subcommittee on Highways and Transit did approve a bill (unnumbered) June 24, 2009, to authorize a six-year \$500 billion surface transportation program. But the bill has gone nowhere because of the unwillingness of the Obama administration, until now, to raise the additional \$100 billion needed to finance the program (gasoline taxes would pay the other \$400 billion.)

Charged Rep. Mica September 7, "(T)he Administration undermined their Democrat House Transportation and Infrastructure Committee chairman and killed any chance for a six-year transportation reauthorization bill."

On the plus side, the formal pro-

posal of an Infrastructure Bank could help break the impasse over a funding supplement for the next highway bill, to go with gasoline taxes. The idea is to use private capital to build roads as much as possible. The bank would begin with federal seed money but would capitalize projects primarily by selling bonds.

Just before heading out for summer vacation in late July the House dealt the Obama administration's pet livability program a major blow. It refused to put up \$200 million for the program in a fiscal year 2011 transportation appropriations bill (HR 5850.)

The motivation, said House Transportation Committee Chairman James Oberstar (D-Minn.), was not to oppose the program. Rather the House was attempting to persuade the administration to support the six-year, \$500 billion transportation bill.

In its fiscal 2011 budget request the Obama administration proposed a \$527 million livability appropriation for the Department of Transportation that would provide grants to state and local agencies. Of the \$527 million, \$200 million would help communities plan transportation alternatives to integrate housing, shopping and other activities in more, well, livable ways. Trails and open space are integral elements of a livability program.

## **EPA says it has no authority to terminate lead ammo use**

EPA last month denied a petition from conservation groups that requested a ban on the use of lead in hunting ammunition.

EPA said quite simply that the Toxic Substances Control Act, under which the petition was submitted, exempts lead ammunition from the jurisdiction of the law.

"EPA reached this decision because the agency does not have the legal authority to regulate this type of product under the Toxic Substances Control Act -

nor is the agency seeking such authority," said Steve Owens, EPA assistant administrator for the Office of Chemical Safety and Pollution Prevention, in a statement.

However, Owens said the agency would evaluate a second portion of the petition dealing with a ban on lead in fishing sinkers. The sinkers are not exempted from the act, he said.

Conservation groups, led by the American Bird Conservancy, petitioned for a sweeping ban on lead in ammunition to protect an estimated 10 million to 20 million birds a year from fatal lead poisoning.

Said Adam Keats, senior counsel for the Center for Biological Diversity, cosponsors of the petition, "We strongly believe that the EPA has the clear authority and duty to regulate this very harmful and toxic substance as used in bullets and shot, despite the so-called exemption for lead ammunition that is written into (the act.)"

The petitioners argued that lead is extremely toxic. They said that animals are poisoned when they eat carcasses imbedded with lead shot.

Conservationists have long pursued the elimination of the use of lead in sport hunting. For the last 19 years the Fish and Wildlife Service has banned lead shot in duck hunting.

In March 2009 the Park Service startled the hunting industry by announcing a goal of elimination of lead ammunition and lead fishing tackle in the parks "by the end of 2010." When the National Rifle Association protested NPS clarified that the ban would apply only to NPS employees, not visitors.

Still, NPS said elimination of lead was a goal, albeit one that would be pursued with public notice and comment. "In the future, we will look at the potential for transitioning to non-lead ammunition and non-lead fishing tackle for recreational use by working with our policy office and appropriate stakeholders/groups. This will require

public involvement, comment, and review," said NPS.

That EPA was even considering a ban on lead ammunition and lead fishing tackle offended the ranking Republican on the House Natural Resources, Doc Hastings. "This potential ban on lead bullets is another massive power grab by the EPA and the latest example of the Obama Administration's assault on Rural America," he said.

## **House WRDA bill struggles with minimal GOP involvement**

With projects on board from only four House Republicans a giant Water Resources Development Act (WRDA) bill (HR 5892) stands little chance of enactment this fall.

The \$6 billion measure, approved by the House Transportation Committee July 29, was already in trouble simply because it would authorize so many expenditures (300 projects) in a down economy.

But the peril was heightened when House Republican leaders refused to recommend projects for the bill on the grounds that such recommendations would constitute earmarks. Four House Republicans did buck their leaders and recommend projects that were included in the bill.

A committee spokeswoman said it is up to House leaders to determine if the bill would move before Congress adjourns October 8. (The House is not scheduled to return to work from an extended summer vacation until September 14.)

A Republican staff member said, "I would be very surprised if WRDA 2010 became law. There are a number of factors – for instance, if you recall, the last WRDA became law on the back of a Bush veto override. I can't imagine this bill having the same kind of bipartisan support, given the House Republican moratorium on earmark requests. The timing and the economic situation are very different for this WRDA."

The counterpart Senate Environment

and Public Works (EPW) Committee is not as far along as the House panel. Chairman Barbara Boxer (D-Calif.) has held hearings and has said she was committed to move a bill, but no legislation has been introduced yet.

In the Senate committee Republicans are not as averse to participating in a WRDA bill as their House colleagues. Ranking EPW Republican James Inhofe (R-Okla.) said he supports Boxer's intent to prepare a bill this year.

The House earmarks ban apparently affects the Everglades because Florida Republicans would not support inclusion of restoration projects in HR 5892, Rep. Mario Diaz-Balart (R-Fla.) reportedly said.

In 2007 Congress did approve and enact a \$23 billion WRDA over the veto of President Bush, who objected to the price tag, even though WRDAs only authorize projects. Appropriators still must put up the money in annual spending bills.

The 2007 authorized big money for the Everglades. One provision authorized a \$1.365 billion Indian River Lagoon project, with half of the money - \$682.5 million - to come from the feds and half from the State of Florida. And it authorized a \$375 million Picayune Strand project with half the money - \$187.5 million - provided by the feds and half by Florida.

House Transportation Committee Chairman James Oberstar (D-Minn.) takes exception to the Republican description of WRDA projects as earmarks. Because the authorizations do not include money, he says, they are not true earmarks.

## Notes

### Sen. Murkowski rejected by GOP.

The ranking Republican on the Senate Energy Committee, Lisa Murkowski of Alaska, was rejected by her own party in an August 24 primary election. Murkowski conceded August 31. Fairbanks lawyer Joe Miller, with the support of former Gov. Sarah Palin (R-Alaska), upset Murkowski by some 1,600 votes.

Murkowski, who replaced her father Frank Murkowski in the Senate, aggressively pursued energy development on public lands in Alaska and elsewhere. She helped shape numerous energy bills in the committee. She also led the Senate opposition to climate change. But Murkowski had upset some rank-and-file Republicans with positions on social issues, such as abortion, that were more moderate than they wanted.

**Maine Woods park supported.** State of Maine residents polled by the National Parks Conservation Association (NPCA) generally support the idea of protecting at least a portion of Maine's North Woods as park land. The NPCA poll, executed by Zogby International, did not ask Maine residents straight up if they favored a large Maine Woods National Park, a sensitive issue in the state. But when Zogby asked the citizenry if they supported setting aside "10 to 20 percent" of the woods for a "public" park, the citizenry backed the idea 75 percent to 20 percent. Similarly, when Zogby asked a roundabout question about partnering by the State and NPS to boost the economy and provide recreation, 77 percent of the citizenry backed a national park. The 10 million acres of the Maine Woods includes large rivers, lakes and wetlands, as well as the largest undeveloped forest in the East. Conservationists have periodically promoted a large new national park for the area and private property rights advocates have resisted. That balance may have been affected in recent years by the development of vacation homes in the woods, including several huge proposals that have engendered widespread opposition.

**Cape Hatteras turtles up; ORV cause?** The Park Service said that by the end of August it had recorded a record number of sea turtle nests on Cape Hatteras National Seashore. Environmentalists immediately attributed the record to a reduction in off-road vehicles on the beach. The park said it has recorded 151 sea turtle nests thus far this year, with the nesting season continuing. The previous record for a year was 111 in 2008. Audubon North Carolina and Defenders of Wildlife said

that new limits on off-road vehicles (ORVs) on the beach imposed by a 2008 consent decree are driving the increase in nesting. "The success of this nesting season underscores the need for a long-term ORV management plan at the Seashore," said Jason Rylander, staff attorney for Defenders of Wildlife. "Our parks should be safe places for wildlife in addition to providing recreational opportunities for visitors." Under the 2008 decree NPS limited areas of the beach with ORV access and hours of day for access. Subsequently, NPS proposed in March a draft EIS that, in a preferred alternative, would close 40.8 miles of existing ORV use areas. It would also set aside 27.2 miles of ORV tracks for ORV use year-round. That is down from 50.1 miles that were available previously. The new plan is to be in place by April 1, 2011. Sen. Richard Burr (R-N.C.) has been on the ORV users side of this fight. He introduced legislation (S 1557) Aug. 3, 2009, that would authorize increased ORV use in Cape Hatteras. Burr holds an important outdoor policy position in the Senate as ranking Republican on the subcommittee on National Parks. His bill would effectively restore a Park Service Interim Management Strategy of June 13, 2007, that the court agreement superseded.

#### **BLM joins FS in bat cave closures.**

The Bureau of Land Management (BLM) last month adopted a policy of closing selected caves in the West that indicate the spread of the bat-killing disease known as white-nose syndrome, according to the Center for Biological Diversity. The Forest Service's Rocky Mountain Region has closed all caves under its jurisdiction in Colorado, Kansas, Nebraska and portions of Wyoming and South Dakota. The Forest Service has already closed caves in the East and South. Although the center praised BLM for issuing the policy, it said BLM should have closed all caves with bats, now. The disease began in the East and has extended as far west as western Oklahoma. Biologists hope the closure of the caves will help stem the spread of the disease, which has killed millions of bats in the East. There is some fear that humans, while not susceptible to the disease, may spread it.

## Conference calendar

### SEPTEMBER

13-17. **Pro Walk/Pro Bike** conference in Chattanooga, Tenn. Contact: The National Center for Bicycling and Walking, 1612 K Street, N.W., Suite 802, Washington, DC 20006. (202) 223.3621. <http://www.bikewalk.org>.

28-29. **National Register of Historic Places and National Historic Landmarks** workshop in Virginia City, NV. Cosponsored by NPS and the Nevada State Historic Preservation Office. Contact: <http://www.nps.gov/history/nr/feature/index.htm>.

### OCTOBER

1-5. **Land Trust Alliance** rally in Hartford, Conn. Contact: Land Trust Alliance, 1331 H St., N.W., Suite 400, Washington, DC 20005-4711. (202) 638-4725. <http://www.lta.org>.

2-6. **The Wildlife Society** annual meeting in Snowbird, Utah. Contact: The Wildlife Society, 5410 Grosvenor Lane, Bethesda, MD 20814-2197. (301) 897-9770. <http://www.wildlife.org>.

5-7. **Outdoor Industry Association Rendezvous** in Asheville, N.C. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

5-7. **Watchable Wildlife** annual conference in Kearney, Neb. Contact: Watchable Wildlife, Inc., PO Box 319, Marine on St. Croix, MN 55047. 651-433-4100. <http://www.watchablewildlife.org>.

27-30. **The National Trust for Historic Preservation** annual conference in Austin, Texas. Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, DC 20036. (202) 588-6100. <http://www.nationaltrust.org>.

25-29. **National Recreation and Park Association** congress and exposition in Minneapolis. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. <http://www.nrpa.org>.