

Federal Parks & Recreation

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Two percent common forecast for appropriations decrease

Congressional Democratic leaders have not specified how they will process fiscal years 2011 appropriations bills in a lame-duck session of Congress next month, but most readers of tea leaves now anticipate an across-the-board reduction. Two percent is a popular guess.

"I've heard that (two percent) rumor," said Alan Rowsome, who handles budget issues for The Wilderness Society. But that rumor is not guaranteed. "I don't think anything is set in stone," he said. "I'm not sure they are going to do one appropriations bill with Interior included, but I wouldn't be surprised if that decision is made."

Said Derrick Crandall, president of the American Recreation Coalition, "I expect a virtual extension of 2010 spending with an across-the-board reduction of two percent for the entire year."

Crandall also anticipates Congress in the lame duck will approve spending for the rest of fiscal 2011, rather than extending fiscal 2010 levels for just a couple of months. A temporary extension would give Republicans a crack at fiscal 2011 appropriations bills next February, assuming they take over Congress, but the next Congress may have enough problems without trying to do left-over appropriations bills.

While a flat two percent reduction sounds simple, the consequences could be complex. Combined with an anticipated three percent increase in wage increases for federal employees, that two percent could quickly grow to five percent.

Agencies are aware of possible cuts. "We've already talked to agencies that must plan to come up with contin-

gencies such as hiring freezes or personnel reductions," said Rowsome. "It has the potential to affect the work force and, if it's really severe, the services agencies provide on the land. We now need to make the case (to Congress) about the need to maintain funding."

Congress may choose to be selective about across-the-board reductions, choosing to slash the vast majority of programs but supporting increases for pet initiatives, goes the theory.

The political sticking point right now for Democratic leaders is the Senate, where as many as six Republican votes are needed to move a bill. And if the November 2 elections skew for Republicans, as pollsters now believe they will, the Republicans are not likely to help Democrats now because they would be taking over in January.

Still, Republicans may choose to support an across-the-board freeze, if it comes close to their demands, to get appropriations out of the way early next year.

President Obama set the tone for a big appropriations reduction June 8 when he told domestic agencies to develop plans for trimming at least five percent from their budgets. Obama said he wanted leeway to increase spending for pet initiatives. Tempering the order, the administration told agencies they could keep half the savings for high priority spending.

Congress has been particularly derelict in moving spending bills this year. It sent to the President none of the 12 annual money bills by an October 1 deadline. Obama did sign September 30 a temporary fiscal 2011 spending bill (PL 111-242) that keeps all federal agencies and programs in money through December 3. The law is relatively clean with few controversial instructions to agencies.

The game plan on paper now calls for the House and Senate to complete individual appropriations bills in the lame-duck session that is scheduled to

begin November 15. Because of political divisions, individual spending bills are almost certainly out of the picture. More likely Congress will attempt to move a jumbo, stripped-down appropriations bill, with as many as a dozen spending bills wrapped inside.

If Congress can't put together such an omnibus money bill, as is widely predicted, it may simply extend fiscal 2010 spending levels throughout the next fiscal year, perhaps with a two percent or more across-the-board reduction.

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

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

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

ENERGY AND WATER: The full Senate Appropriations Committee approved this bill (S 3635) July 22 that finances the Corps of Engineers and the Bureau of Reclamation. The House subcommittee on Energy and Water Appropriations approved

a counterpart bill (no number) July 15.

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

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

NPS drops speech permit demand for small groups

The Obama administration last week accepted a federal court decision and said it will no longer force individuals or groups of 25 or less to obtain a permit to demonstrate in national parks.

The rule will also let individuals and groups of 25 or less distribute literature in the parks. NPS published an interim rule to carry out the court order October 19. It will accept comments until December 20.

Says the NPS *Federal Register* notice, "Accordingly, under this rule at 36 CFR 2.51(b)(1) and 2.52(b)(1), demonstrations and the sale or the distribution of printed matter by 25 or fewer persons may be conducted without a permit in the available areas designated at 36 CFR 2.51(c)."

Said Jonathan Jarvis, NPS director, "The new regulation allows for the spontaneity of First Amendment activities, preserving citizens' rights to free speech while allowing the National Park Service to protect the resources entrusted to our care."

At issue is a rule published by the Reagan administration in 1983 that required a permit from the Park Service for any individual or group that wished to speak within a national park. Each park set aside free speech areas. The rule also required a permit to distribute literature.

In 2007, the appellant in the lawsuit, Michael Boardley, attempted to distribute papers on the Gospel of Jesus Christ in a free speech area of Mount Rushmore National Memorial. A ranger blocked the attempt because Boardley and friends had not obtained a permit.

Boardley took the case to U.S. District Court for the District of Columbia and the court agreed with him. On August 6 the U.S. Court of Appeals for the District of Columbia agreed with the district court and Boardley.

Said the appeals court, "Given the breadth of these proscriptions, virtually anyone engaging in any permitless expressive activity in a national park risks a penalty. Thus, the NPS regulations not only lack narrow tailoring, they fail to leave open ample intra-forum alternatives for communication."

The three-judge panel drew a distinction between small and large groups. "Large groups, of course, generally cannot speak spontaneously," said the three-judge panel. "Obligating a large group to apply for a permit simply creates one more step in the already-lengthy process of planning a large-scale event. Individuals and small groups, by contrast, frequently wish to speak off the cuff, in response to unexpected events or unforeseen stimuli."

The court did suggest NPS could attempt to adopt guidelines to protect parks, but it did not guarantee the guidelines would pass legal muster.

"Instead of subjecting individuals and small groups to a prior restraint on speech, the NPS could simply prohibit and punish conduct that harasses park visitors, interferes with official programs, or creates security or accessibility hazards," said the panel. "Or, rather than employing an identical prior restraint on speech no matter where it occurs in a park, the NPS could craft distinct regulations for wilderness areas, visitors centers, parking lots, and so forth."

But the court said such rules may still not be constitutional. "Whether

any of these options would withstand constitutional scrutiny depends on the specifics," it said.

In its interim rule the Park Service attempted to clarify what constituted a demonstration. It said that "this rule more narrowly limits the definition of a demonstration, and makes explicit that the term includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct which involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to draw a crowd or onlookers."

Omnibus lands bill urged, opposed for lame-duck session

Supporters of an omnibus park and recreation bill and critics of an omnibus are gearing up for the crunch that is expected when Congress returns for a lame-duck session November 15.

Rep. Martin Heinrich (D-N.M.) is trying to get the ball rolling now. He is soliciting signatures from his House colleagues to a letter asking leadership to move an omnibus bill.

Heinrich began his letter by noting the House has approved 156 bills passed by the House Natural Resources Committee, but the Senate has approved only 12 bills passed by the Senate Energy Committee. "As a result," he told his colleagues October 7, "this Congress' best opportunity for significant action on issues critical to our natural resources, water, and wildlife is a public lands bill that consolidates the important work done by both the House and Senate over the past two years."

If sent, the Dear Colleague letter to House Democratic and Republican leaders would say simply, "We write to urge you to bring an omnibus public lands bill to the House floor for a vote before the end of this Congress."

Although most conservation groups support an omnibus bill, there is oppo-

sition, such as from Americans for Responsible Recreational Access. It backs motorized use of the public lands.

Said association executive director Larry E. Smith, "Passing a massive public lands bill during the lame-duck session of the 111th Congress is not the way to make public policy for our public lands. Most members won't have a clue what is in the omnibus package. If Congress does anything in the lame-duck session, it needs to pass urgent government funding legislation. All other measures, including those dealing with our public lands, can wait for the attention of the new Congress when it convenes in January, 2011."

Congressional Democratic leaders are not necessarily committed to an omnibus lands bill in the lame duck. They have only talked about passing bills dealing with appropriations, taxes and international affairs. That doesn't leave much room for a lands bill.

The November 2 elections may not be the deciding factor in the leaders' computations because both political parties share in an omnibus bill. The ultimate call in the Senate as to whether an omnibus is prepared at all will be made by Senate Majority Leader Harry Reid (D-Nev.)

Staff members on the Senate Energy Committee, which usually takes the lead in assembling such bills, say they are prepared. Said one aide recently, "No, we do not have any specific details right now about an omnibus lands bill in a lame-duck session, although we're ready to go with one if there is available floor time."

The Senate committee and the House Natural Resources Committee have now approved dozens, if not more than 100, bills each that are logical candidates for inclusion in an omnibus. In addition, the Obama administration has been sympathetic in the past, with Secretary of Interior Ken Salazar promoting the idea of a bill similar to an omnibus lands bill Congress approved last year (PL 111-11 of March 30, 2009.) Here are a few candidates:

RECREATION FEE DIVERSION: HR 1858. The House approved this potentially controversial bill from Rep. Betsy Markey (D-Colo.) Sept. 8, 2009. HR 1858 would compensate private landowners for a boundary adjustment in the Roosevelt National Forest in Colorado, with recreation fee money paying the freight. The Department of Agriculture opposes the diversion of rec fee money. It told the Senate Energy Committee Sept. 29, 2010, "The Department does not support the use of (recreation fee) funds, because this use is in direct conflict with the direction provided by Congress in (the recreation fee law)." The Federal Lands Recreation Enhancement Act was enacted in Dec. 8, 2004, as PL 108-447.

SKI AREA BILL: S 607, HR 2476. The Senate Energy Committee approved this bill July 21 and the House approved it July 30. Because Forest Service policy is unclear about what uses ski resorts may authorize on federal lands in the off-season the industry asked Congress to provide explicit authority. That the legislation would do. Sen. Mark Udall (D-Colo.) and Rep. Diana DeGette (D-Colo.) are the lead sponsors.

FS CABIN FEE BILL: HR 4888, S 3929. The House Natural Resources Committee July 22 approved this bill introduced by ranking committee Republican Doc Hastings (D-Wash.) Sen. Jon Tester (D-Mont.) introduced a counterpart bill September 29. Under existing Forest Service practice fees can shoot up dramatically when new appraisals of the value of the cabins are performed. To prevent fee spikes the bills would establish levels of flat fees based on the value of cabins.

VALLES CALDERA: S 3542. The Senate Energy Committee approved this legislation August 5 from committee chairman Jeff Bingaman (D-N.M.) that would transfer the Valles Caldera Preserve in New Mexico from the Forest Service to the Park Service. The Congressional Budget Office reported September 10 the legislation would cost \$16 million over the next five years, but said the transfer would not violate Congress's "pay-as-you-go" rules because the extra money would presumably be taken out of exist-

ing appropriations. Congress designated the preserve on 88,900 acres of Santa Fe National Forest land in 2000.

FEDERAL LAND TRANSACTION FACILITATION ACT: S 1787, HR 3339. The Senate Energy Committee June 21 approved this legislation that would allow BLM to sell lands cleared by all land management plans, not just plans completed prior to 2000, as the old law does. Sen. Bingaman and Rep. Heinrich introduced the legislation. Under an existing law BLM may only sell lands cleared for disposition by land management plans completed prior to 2000. BLM has raised more than \$100 million from the land sales. Most of that money is used for conservation and acquisition.

MONUMENTS: An omnibus bill could provide a home for national monuments that the Interior Department is evaluating, if the monuments aren't designated by Presidential proclamation under the Antiquities Act of 1906. An internal Interior Department document indicates that the department is evaluating 14 such monuments.

WILDERNESS: An omnibus would also provide a home for the dozen of so wilderness bills the House and Senate committee have approved over the last two years.

NPS partners urge Congress to move 'Friends' legislation

Friends groups that partner with the National Park Service told Congress last month they are increasingly frustrated by obstacles to agreements put up by the agency. But NPS said it is making progress in developing standard agreements to resolve those complaints.

One friend, Greg Moore, executive director of the Golden Gate National Parks Conservancy, told the House subcommittee on National Parks, "There is no comprehensive legislation specifically supporting the valuable role of cooperating associations, friends groups or National Park Service partnerships, with the exception of the National Park Foundation."

Among other things he recommended that Congress clear up confusion about a Centennial Challenge program that provides seed money for projects to spruce up the National Park System by its centennial in 2016.

"As one solution, I recommend strengthening the purpose and intent of the Challenge Cost Share authority through legislative clarification that reconciles its specific intent with general federal law," he said. Moore also provided his testimony on behalf of the National Park Friends Alliance.

Speaking for nonprofits, Donna Asbury, executive director of the Association of Partners for Public Lands, complained about erratic NPS administration of existing policy. "There is a lack of uniformity in how agreements and policies are applied throughout the Department of Interior and the National Park system," she said. "This is especially problematic for nonprofit organizations that work with multiple agencies, that work across park or regional boundaries, or whose activities are at a level requiring multiple agreements or multiple layers of approval."

But NPS Deputy Director Dan Wenk told the subcommittee the agency was closing in on a new template of an agreement developed by friends groups that may expedite things. "We have created an atmosphere where we are going to get that template done," he said. "That template will describe perhaps 80 percent of the language in all partnership agreements. We will only be negotiating 20 percent based on a particular circumstance."

Subcommittee chairman Raúl Grijalva (D-Ariz.) said he was not happy with NPS's administration of partnership agreements. "It is important to note, however, that private partnerships within the National Park System have developed on a case-by-case basis and have grown in size and scope without coherent, system-wide, standards and management practices in law," he said.

The Bush administration gave partnerships a giant boost in February 2007

when it proposed a Centennial Challenge program that would have Congress match private contributions dollar-for-dollar. Congress would put up \$100 million per year and partners \$100 million for a total of \$200 million. All told before the NPS Centennial in 2016 the program would provide \$1 billion for non-core functions of the parks. Congress has approved much less than \$100 million in seed money for the effort in the last three appropriations bills combined. And it has not established a standing program.

In response to questioning from Grijalva Wenk said NPS would not be party to any partnership agreement that would be used to advertise on behalf of private entities. "We have many ways of providing services to our visitors through our concessions contracts that are very strongly regulated and we have concession contracts that could compete for that business opportunity in parks," he said. "Some partner organizations have approached us for opportunities that are as much for benefit of the partner as for the park. We would not allow those, if they would want to advertise."

The National Parks Hospitality Association (NPHA) has a specific recommendation for Congress: Establish a program for the construction of new park visitor facilities. NPHA counselor Derrick Crandall told the subcommittee, "We urge you to help in the creation of new park facilities in the tradition of the grand, enduring structures, many predating the creation of the National Park Service in 1916, that are synonymous with the National Park System."

Crandall recommended that the new facilities be constructed in parks that do not now enjoy grand facilities. He singled out Voyageurs National Park in Minnesota as a site where increased facilities within the park could entice more visitors.

The political situation for next year will have a lot to say about what does and does not get done by Congress. And that political situation is very much up in the air. Pollsters say Re-

publicans may be poised to take over the House. Grijalva's district is no longer safe. And ranking subcommittee Republican Robb Bishop (R-Utah) may not want to take the chairmanship.

For now park supporters are focusing on the Obama administration's America's Great Outdoors (AGO) initiative for help. Federal officials are to report to the President November 15 on recommendations for AGO that may include improvements to the parks.

FWS DRAFT FRIENDS POLICY: While the Park Service is developing its partnership templates, the Fish and Wildlife Service (FWS) is already going public with proposed partnership agreements. FWS gave public notice of a draft policy October 18 that will provide "guidance regarding financial and administrative practices, Friends Partnership Agreements, and revenue generating operations."

The FWS draft is available at <http://www.fws.gov/refuges/friends>. FWS will take public comment on the draft by December 2 to: Kevin Kilcullen, Visitor Services, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 635, Arlington, VA 22203 or by E-mail to refugesystempolicycomments@fws.gov.

Elections: GOP senators, Reps may be in line for chairs

Assuming Republicans take over the House and Senate in the November 2 elections, it is possible if not likely that existing ranking subcommittee and committee Republicans will become chairmen.

Thus in the House Natural Resources Committee ranking Republican Doc Hastings (R-Wash.) would replace existing chairman Nick Joe Rahall (D-W.Va.) On paper.

In the Senate Energy Committee things get a little more complicated because ranking Republican Sen. Lisa Murkowski (Alaska) was defeated in a Republican primary in her state and is running as an independent. In the event

of a GOP takeover the likely new chairman would be Sen. John Barrasso (R-Wyo.), according to most speculation.

Both replacements would produce titanic changes with Hastings and Barrasso historically aggressive advocates of consumptive uses of federal lands as opposed to their more protective Democratic counterparts.

All other things being equal the trade-off of key Interior and related agencies appropriations subcommittee leaders would not produce such dramatic changes. That's because ranking House subcommittee on Interior appropriations minority member Mike Simpson (R-Idaho) has worked closely with Rep. Jim Moran (D-Va.) and vice versa.

Similarly, in the counterpart Senate Interior Appropriations subcommittee ranking Republican Lamar Alexander (R-Tenn.) has in the past cooperated with chairman Dianne Feinstein (D-Calif.) in writing annual spending bills. Besides, spending ceilings established by House and Senate leaders have as much to do with spending as subcommittee chiefs.

Again, that may be getting the cart ahead of the horse because, obviously, elections have not been held yet. In addition if Republicans do take over, they may reorganize committee and subcommittees and the present ranking Republicans may choose to move on to something else.

If Republicans do take over, they are already promoting broad change. Flexing their muscles in a big way, House Republicans September 23 presented the nation with a sweeping approach to government called *Pledge to America*. The 48-page document addresses two issues related to the outdoors. One, it promises to forbid a climate change "cap-and-trade" tax. Stalled Democratic bills in the House and Senate would allocate a big share of such a tax to outdoor programs, including the Land and Water Conservation Fund.

Less directly, the Republicans promise to get tough on domestic discre-

tionary spending with a "hard cap." However, the Obama administration is already insisting on a five percent reduction in domestic discretionary spending.

The Pledge to America doesn't mention a closure of the federal government, as happened during the Clinton administration. But numerous Republican candidates have recommended such a possibility, if only to defund a big new health care law. Those Republicans include Rep. Tom Price (R-Ga.), Republican Study Committee chairman.

Here's a recap of the subcommittee and committee structures that may be up for grabs:

HOUSE INTERIOR: Rahall currently chairs the subcommittee and Hastings is the ranking Republican. At the next level Rep. Raúl Grijalva (D-Ariz.) chairs the subcommittee on National Parks Forests and Public Lands, and Rep. Robb Bishop (R-Utah) is the ranking Republican. Hastings and Bishop are polar opposites to Rahall and Grijalva on most outdoor policies, with Hastings and Bishop favoring commercial and motorized uses of federal lands.

HOUSE APPROPRIATIONS: Moran just took over earlier this year as subcommittee chairman and has written only one spending bill, a fiscal year 2011 measure that his panel approved July 22. The measure has not moved since. Simpson and Moran cooperated closely on the development of the bill.

HOUSE TRANSPORTATION: Current House Transportation Committee Chairman James Oberstar (D-Minn.), a forceful advocate of government spending on infrastructure, might give way to ranking Republican John Mica (R-Fla.), a less forceful advocate. The transportation panel is not only responsible for highway projects that include trails but also for the writing of periodic Water Resources Development Acts (WRDAs) and legislation to protect wetlands.

SENATE ENERGY: If Republicans take the Senate, current Senate Energy Committee Chairman Jeff Bingaman (D-N.M.)

would have to give way to Barrasso, or, by tradition, another western Republican. In the subcommittee on National Parks Sen. Richard Burr (R-N.C.) would be in line to replace Sen. Mark Udall (D-Colo.) Although a hard-line conservative most of the time Burr has cosponsored legislation to provide full funding for the Land and Water Conservation Fund.

SENATE APPROPRIATIONS: If Republicans took over, Alexander could be in line to replace Feinstein as chairman of the Interior subcommittee. However, some western Republican might bid for the job.

SENATE EPW: If Republicans took over the Senate Environment and Public Works Committee, ranking Republican James Inhofe (R-Okla.) would be the logical choice to replace Sen. Barbara Boxer (D-Calif.) Like the House Transportation Committee the panel oversees transportation, WRDAs and wetlands. Inhofe traditionally has been a big supporter of infrastructure spending.

Obama outdoors initiative reportedly will hit deadline

The Obama administration is "still on schedule" to complete by mid-November recommendations to President Obama on an America's Great Outdoor (AGO) initiative.

Representatives of a broad spectrum of federal agencies met last week to refine recommendations. It is understood from sources close to the process that the meeting produced positives and negatives.

On the negative side lots of good ideas were running into the economic meat grinder. "Those ideas are out of synch with the budget realities. It's tough in this climate to propose programs as expensive and dramatic as we would like," said one source close to the process.

On the positive side administration officials are reportedly proud that representatives of unrelated agencies

are working together fairly well. Perhaps when there is no money officials are forced to cooperate.

But anyhow, said one source, "There is a feeling of unification with representatives as diverse as Health and Human Services, Education and Labor working together to give recreation a high priority."

A spokeswoman for the Council on Environmental Quality, which is chairing the effort, confirmed that officials from the following federal offices are developing a report: Departments of Defense, Commerce, Housing and Urban Development, Health and Human Services, Labor, Transportation, Education, and the Office of Management and Budget.

That's the official word. As we reported in the last issue of *FPR* an unofficial survey of public input to AGO suggested four overarching themes:

- * protect America's great places,
- * link the outdoors to health (particularly for youths),
- * increase spending for the National Park Service, and
- * increase (or decrease) opportunities for off-highway vehicles.

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.

Obama laid out four goals for the initiative report, to be fashioned under the lead of Council on Environmental Quality Chair Nancy Sutley. He suggested four substantive strategies: (1) build on efforts outside the beltway, (2) help property owners protect property, (3) help get young people outdoors and (4) build "a new generation of community and urban parks."

The AGO game plan calls for six task forces, including one on recreation, to complete first drafts of rec-

ommendations by September 15. Final drafts were to be completed the first week in October and final recommendations delivered November 15.

Obama again asks action on start-up highway spending

The Obama administration is beating the drums for Congress in a lame-duck session of Congress to approve a \$50 billion down payment on a \$500 billion surface transportation bill.

That may be tough to do because the administration won't submit details of its recommendations for a fleshed-out bill until next February. Besides any new federal spending hikes would face stiff political opposition.

Still, the President on October 11 at a meeting with state and local officials trumpeted his recommendations for the \$50 billion start-up that would have a national infrastructure bank levy the money.

Secretary of the Treasury Tim Geithner said at the meeting, "Investing in our transportation infrastructure in the near term will pay dividends for our economy both now and in the future. Modernizing our roads, rails and airports will create middle class jobs, help increase America's productivity and expand our exports."

After the meeting Secretary of Transportation Ray LaHood told reporters that the administration would like Congress to approve the \$50 billion during the lame-duck session that is scheduled to begin November 15. By some accounts the administration would pay for the start-up with new oil and gas taxes.

Longer-term, neither the administration nor Congress has identified the source(s) of money needed to pay for a six-year, \$500 billion surface transportation law that the \$50 billion would kick off. The administration simply says in a fact sheet, "As with other long-run policies, the Administration is committed to working with Congress to fully pay for the plan."

Separately, House Transportation Committee Chairman James Oberstar (D-Minn.) told *Congressional Quarterly* earlier this month he supports a significant increase in the gasoline tax. But if the Republicans gain control of the House in the November 2 elections, Oberstar will no longer be the transportation tsar in Congress.

The old SAFETEA surface transportation law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, expired Sept. 30, 2009, but Congress has kept it going with temporary extensions. Most recently on March 18 Congress extended SAFETEA until December 31 (PL 111-147.)

The Obama proposal surfaces as legislation to establish the new six-year surface transportation program is stalled in Congress. The House subcommittee on Highways and Transit approved a six-year, \$500 billion surface transportation bill (unnumbered) June 24, 2009. 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.

The administration last month told Congress it intends to submit its recommended details for a multi-year surface transportation reauthorization bill in February. That's according to Department of Transportation Under Secretary for Policy Roy Kienitz in testimony before the Senate Banking Committee.

FS leaders commit to role for recreation in forest planning

The Forest Service has confirmed what recreation leaders already believe - the agency is committed to providing a substantial role for recreation in an upcoming national forest planning rule.

Not only that, the leadership of the Department of Agriculture is also reportedly committed to ensuring that recreation gets its due in the rule.

As *FPR* reported in the last issue, the recreation establishment was con-

cerned about early indications from the Forest Service that climate change and biodiversity would be the end objectives of a new planning rule. The regulation is designed to guide agency work for the next decade or two.

After meeting with Chief Thomas Tidwell and other service cadre September 27, the recreationists published a press release that quoted the chief, "It is appropriate and right for recreation to be the first thought when Americans think about the national forests."

After our deadline for the last issue the Forest Service independently responded to our questions on the commitment of Tidwell and deputy chief Joel Holtrop: "They are committed to ensure that recreation would be given equal consideration to other resources in the rule and to continue to work with the recreation community throughout the development of the rule."

The recreation leaders then met with Under Secretary of Agriculture for Natural Resources Harris Sherman on October 13 and said they received a similar commitment. "Harris said he would go back and make sure recreation is considered in a planning rule," said Derrick Crandall, president of the American Recreation Coalition.

Added Crandall, "When the Forest Service started to develop a planning rule a year ago climate change and biodiversity were all the rage, but that doesn't mean the agency can throw out those things that are required by statute, such as recreation."

The recreationists were miffed because back-up planning documentation didn't give recreation the prominence they thought it deserves in forest management under the Multiple-Use Sustained Yield Act of 1960.

"We do not assert that outdoor recreation is, or should be, a dominant use of all national forest lands," the Coalition for Recreation in the National Forests wrote the chief September 13. "But it is important and relevant to note that the Congress specifically listed outdoor recreation first in the

identified mandated management responsibilities of the Forest Service."

Meeting with Sherman were attorney William Horn, who represents the U.S. Sportsmen's Alliance; Michael Nussman, president of the American Sportfishing Association; Ben Pendergrass, legislative director of the American Horse Council; Kam Quarles, Washington representative of the Good Sam Club; Susan Recce, director of conservation for the National Rifle Association; and Larry Smith, executive director of Americans for Responsible Recreational Access.

The larger Coalition for Recreation in the National Forests includes 72 diverse interest groups such as the National Rifle Association, the Theodore Roosevelt Conservation Partnership, and Forest Service retirees.

Having received 26,000 comments on its notice of intent to prepare a rule and having held 40 meetings, the service said in August it intended to publish a draft rule by the end of the year.

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

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.

EPA takes action on haze reduction over Class I parks

The Obama administration became quite specific last week in its campaign to reduce haze over Class I public lands, including national parks. It proposed a tough new rule that would reduce nitrogen oxides from the Four Corners Power Plant in New Mexico.

If the rule, estimated to cost \$717 million, is implemented, EPA says it will improve visibility at 17 nearby national parks and wilderness areas by 57 percent. The power plant burns coal mined on the Navajo Indian Reservation.

Pleased environmentalists see the proposed rule as the beginning of a national crackdown. "The proposed rule is a good first step toward eliminating man-made haze in protected areas, including national parks," said Jeremy Nichols, climate and energy program director, WildEarth Guardians.

Putting bite in their demands, 16 conservation groups on May 20 petitioned EPA to force states to implement national rules regulating haze by January 2011. If states didn't act, the petition would have EPA issue a federal rule.

In addition to the general haze rule EPA is proposing a federal implementation plan just for the Four Corners Power Plant. "The Four Corners Power Plant is the largest source of nitrogen oxides in the nation," said Jared Blumenfeld, regional administrator for EPA's Pacific Southwest Region. "Adding new pollution controls at this 45-year

old plant will reduce these emissions by 80 percent - we will all be able to see the results and breathe cleaner, healthier air."

But there will be a cost. The owners and operators of Four Corners - including Arizona Public Service utility - said an earlier version of an EPA visibility rule would have put the plant out of business. The owners and operators have not weighed in on the new EPA proposal and probably won't until they file comments before a December 6 deadline.

The EPA proposal would have Four Corners install Selective Catalytic Reduction in all five units on the plant. The plant produces 2,250 megawatts of electricity and employs more than 1,000 people.

It also produces more nitrogen oxides than any other single source in the nation. And the National Parks Conservation Association (NPCA) says national parks in the nearby states of Arizona, Colorado, New Mexico and Utah support more than 18,000 jobs.

As to the larger national initiative to clean up haze, 1977 amendments to the Clean Air Act established an elaborate procedure for the states and EPA to improve visibility over 156 Class I national parks and wilderness areas of more than 5,000 acres. And to prevent increases in haze.

Although the 1977 amendments directed EPA and the states to write plans to clean up haze, little has been done. After decades of lawsuits from environmentalists, including NPCA, EPA on January 15, 2009, told the states they must submit proposed State Implementation Plans by January 2010 in order to promulgate final plans by a deadline of January 15, 2011. If states don't prepare plans, then EPA will issue federal plans.

However, the states have been slow to submit plans, which are supposed to compel coal-fired power plants and other industrial polluters to adopt best available retrofit technology.

Environmentalists make no secret that their main target is coal-fired power plants, including the Four Corners plant. As Mike Eisenfeld, New Mexico energy coordinator for San Juan Citizens Alliance, said in May, "Our region's two biggest coal-fired power plants, the Four Corners Power Plant and the Navajo Generating Station, contribute the most haze over the greatest number of parks and wilderness areas of any other pollution source in the country. Regional haze from industrial sources continues to increase in the Four Corners region, where it also harms the public's health."

Notes

BLM okays five solar projects.

BLM has approved this month the first five major solar power development projects on public lands, but the larger Obama administration renewable energy program still has a long way to go. And many obstacles lie ahead. For now Secretary of Interior Ken Salazar is celebrating the approval of rights-of-way (ROWs) in California for an Imperial Valley Solar Project, a Chevron Lucerne Valley Solar Project, an Ivanpah Solar Electric Generating System and a Calico Solar Project. And on October 13 he approved a ROW for a Silver State North Solar Project in Nevada. BLM still has before it more than 120 applications for solar ROWs on public lands. More specifically, BLM is rushing to approve nine more projects before the end of the year so that sponsors may obtain billions of dollars in economic stimulus money. The nine projects are among the 121 ROWs that companies applied for before July 2009. All applications received after July 2009 must wait until BLM completes a programmatic EIS on solar policy. A draft EIS is due out by the end of the year. Obtaining a permit is but the first step. The four new ROW permittees are all testing out different technologies. They also must gain approval of separate ROWs for electrical transmission lines to urban and suburban areas. Complicating things Sen. Dianne Feinstein (D-Calif.) introduced legislation (S 2921) in December that would put more than one million acres of the 11-million acres of public lands in the

California Desert off limits to solar power development. Feinstein, chair of the Senate subcommittee on Interior appropriations, is by definition in position to move her legislation as part of a fiscal 2011 public lands appropriations bill later this year.

Task force posts climate guidance.

Not surprisingly, a federal interagency task force October 14 recommended to President Obama that the administration make adaptation to climate change part of federal agency planning. In the next step the Office of the Federal Environmental Executive is to develop instructions within 120 days that tell agencies how to implement climate adaptation in planning. At the same time the task force intends to put together by next spring a committee of local, state, and Tribal representatives for consultation. The Interagency Climate Change Adaptation Task Force is co-chaired by the Council on Environmental Quality, the Office of Science and Technology Policy, and the National Oceanic and Atmospheric Administration and counts representatives from more than 20 federal agencies. President Obama requested the report when he issued an environment and energy executive order on Oct. 5, 2009. The task force report is available at www.whitehouse.gov/ceq.

Everglades restoration a

moneymaker? The Everglades Foundation said October 18 that restoration of the Everglades ecosystem would increase economic benefits in South Florida by \$46.5 billion. That's about \$4 for every \$1 spent for the restoration. The National Research Council last month said the restoration would cost about \$12.8 billion. The council also said that progress is so slow that the federal government and the State of Florida should anticipate taking up to 60 years to complete the Comprehensive Everglades Restoration Project, authorized by Congress in 2000. The Everglades Foundation, a nonprofit group that supports the restoration, said the money would be well spent. It released a report prepared by Mather Economics, an Atlanta-based firm, that said the benefits could climb as high as \$123.9 billion. "It is clear that Everglades restoration not only produces ecological benefits, but

also generates a robust economic boost to our economy. For every dollar spent on Everglades restoration, we are getting four dollars back in the form of higher home values, increased tourism and stronger fishing, boating and tourism industries," said Kirk Fordham, CEO of the Everglades Foundation. The report is available at www.evergladesfoundation.org.

Forests store lots of carbon. The Forest Service reported October 15 that the nation's forests help protect the nation from greenhouse gases by sequestering 11 percent of the nation's carbon emissions each year. Said Agriculture Secretary Tom Vilsack, "Forest management on all lands can contribute significantly toward cooling a warming planet, and this new information will assist the public and policy makers as we work to address this significant issue." The report says that the nation's forests, both national and private, store 41.4 billion metric tons of carbon. The report says national forests contain an average of 77.8 metric tons of carbon per acre compared to 68.3 metric tons for non-federal public forests and 60.7 metric tons for private forests. The report and information about carbon storage are available at www.fs.fed.us/rmrs/forest-carbon/.

No NPS fees on Veterans Day. The Park Service will not charge entrance fees to any visitors on Veterans Day, November 11, to honor the nation's veterans. The Obama administration has held a number of fee-free days the last two years to spur visitation to the national parks and other federal recreation areas. NPS Director Jon Jarvis announced the fee-free Veterans Day policy.

Youth outdoor activity drop slows. The decline in children participation in outdoor activities continued again in 2009, but at a lower rate than the previous several years, the Outdoor Foundation reported last week. The foundation said that for youths aged six to 12 the decline in participation dropped by only two percent, from 64 percent to 62 percent from the previous year. The 64 percent participation rate compares to a 78 percent participation rate as re-

cently as 2006. "We are encouraged that the trends appear to be stabilizing with youth participation rates," said Chris Fanning, executive director of The Outdoor Foundation. This is the fourth year the Outdoor Foundation has prepared an Outdoor Recreation Participation Report. The foundation is a not-for-profit group dedicated to increasing outdoor participation. The report is available at: <http://www.outdoorfoundation.org>.

HUD issues 'livability' grants.

The Department of Housing and Urban Development kicked off the Obama administration's campaign to make communities more livable October 14 by awarding almost \$100 million in grants. HUD is working with numerous other federal agencies on the livability program to coordinate home building, road construction, open space preservation and other elements of livability in one place. HUD said that one kind of grants will be allocated for regional planning where such planning does not now exist. A second category of grants will help implement existing programs.

USDA backs Idaho roadless rule.

Secretary of Agriculture Tom Vilsack himself October 15 endorsed a controversial Forest Service rule tailored for national forests in Idaho. Just as a federal court was hearing arguments from environmentalists who oppose the Idaho rule, Vilsack went the other way. "In short, this Administration supports the Idaho roadless rule because it provides protections for roadless areas that are in keeping with the President's strong commitment to roadless conservation," Vilsack said. In their lawsuit The Wilderness Society and the Greater Yellowstone Coalition argued that the Idaho rule exposes to development 400,000 acres of roadless forest. The Idaho rule, published on Oct. 16, 2008, applies to 9.3 million acres on 10 national forests. In a statement Vilsack said that despite the criticism from the two environmental groups, the rule "has support from many diverse interests, including the State of Idaho, Kootenai Tribes of Idaho, the Idaho Association of Counties, Idaho Conservation League and Trout Unlimited, who have joined the

lawsuit as interveners in its defense." The conservationists who support the rule argue that the protections the rule provides outweigh the possible damage to the 400,000 acres. President Clinton established a rule in 2001 that barred most new road construction in roadless national forests. The Bush administration then modified the rule to allow states to apply for customized rules. Idaho was the only state that succeeded in obtaining a rule, although the State of Colorado did apply. The Obama administration has not forged a new roadless area rule because it is waiting for federal courts to resolve competing rulings. The legal situation is up in the air because 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.

Rocky arsenal becomes a refuge.

Obama administration officials October 15 marked the end of a 10-year cleanup of the old Rocky Mountain Arsenal in Colorado and the conversion of the site to a national wildlife refuge. The Rocky Mountain Arsenal National Wildlife Refuge contains more than 15,000 acres and sits 10 miles northeast of Denver. The October 15 event coincided with the formal transfer of the last 2,500 acres of the arsenal from the U.S. Army to the Fish and Wildlife Service. The cleanup of the old chemical plant cost \$2.1 billion, making it one of the largest in the country.

Report reviews urban forests role.

The Forest Service described in a new report October 7 the importance of urban forests to society and tools for managing urban forests. The service said that community forests will have to cope with the same problems as national forests, such as nonnative species, fires, pollution and climate change. More than 80 percent of the nation's population, or more than 220 million people, live in urban areas and benefit from trees. The report, *Sustaining America's Urban Trees and Forests*, is available at <http://www.fs.fed.us/openspace/fote>.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Appropriations 2011 (Interior)		
No bill number yet	House subcommittee approved July 22.	Would roughly maintain FY 2010 spending with some increase for LWCF.
Appropriations fiscal 2011 (Energy and water)		
No House bill yet S 3635 (Dorgan)	House subcommittee approved July 15. Senate committee approved July 22.	Would roughly maintain FY 2010 spending.
Appropriations fiscal 2011 (Agriculture)		
No bill number yet S 3606 (Kohl)	House subcommittee approved June 30. Senate committee approved July 15.	Would reduce spending somewhat compared to FY 2010.
Appropriations fiscal 2011 (Transportation)		
HR 5850 (Olver) S 3644 (Murray)	House approved July 29. Senate committee approved July 22.	House would increase spending somewhat, Senate would maintain status quo.
Appropriations Stimulus		
HR 1 (Obey)	President Obama signed into law Feb. 17, 2009, as PL 111-5.	Allocates some \$4 billion to federal land management agencies to help revive the economy.
LWCF revival		
HR 3534 (Rahall) S 2747 (Bingaman) S 3663 (Reid)	House approved July 30. Bingaman put in Nov. 6, 2009. Reid introduced July 28.	All would guarantee full funding of \$900M per year. All depend on energy legislation.
UPAR revival		
HR 3734 (Sires)	Sires introduced Oct. 6, 2009.	Would establish \$445 million urban park grant program in HUD.
Omnibus Lands Bill		
S 22 (Bingaman) HR 146 (Holt)	President signed into law March 30, 2009, as PL 111-11.	Includes 160+ individual bills, including NLCS, new national parks.
National Landscape Conservation System		
HR 404 (Grijalva) S 22 (previous item)	Included in omnibus law (previous item.)	Gives NLCS official designation by Congress.
California Desert protection		
S 2921 (Feinstein)	Senate committee hearing May 20.	Would establish monument to protect 1 million acres of BLM-managed desert.
Grand Canyon withdrawal		
HR 644 (Grijalva)	House subcommittee hearing July 21, 2009.	Would withdraw 1 million acres of federal land near Grand Canyon NP to prevent uranium mining.
Surface Transportation		
HR 1329 (Blumenauer) S 575 (Carper) S 1036 (Rockefeller) Unnumbered (Oberstar)	Blumenauer put in March 5, 2009. Carper put in March 11, 2009. Rockefeller put in May 12, 2009. House subcommittee approved Oberstar bill June 24, 2009.	Blumenauer would establish a piece of a surface transportation law with climate change money. Rockefeller would establish broad goals for law. Oberstar would extend outdoor programs for six years.
FLREA (rec fee law) repeal		
S 868 (Baucus)	Baucus introduced April 22, 2009.	Would repeal the comprehensive federal rec fee law.
Fire suppression		
HR 1404 (Rahall) S 561 (Bingaman)	Included in Interior money bill above.	Establishes an emergency fire-fighting fund to limit agency borrowing.
Ski area uses		
S 607 (M. Udall)	Udall introduced March 17, 2009.	Would specify that ski resorts on national forest land may allow non-skiing recreation uses.
Weapons in parks		
HR 1684 (Hastings) S 816 (Crapo)	President Obama signed into law May 22, 2009, as part of	Directs Interior to allow concealed weapons in national parks, refuges.