

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Celina Richardson

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Highway stimulus money faces a long, risky political road

President Obama's proposal to inject \$50 billion up-front into highway programs next year - with an emphasis on livability - faces enormous odds.

First and foremost, there is a reasonable chance that the Republican Party will take over the House next year. And increased domestic spending is at the bottom of the GOP priority list.

"The thing you have to keep in mind is what happens in November," said a Democratic staff member on the House Transportation Committee. "If the Republicans take over, it will shuffle the deck. The Senate is already deadlocked on transportation spending."

Second, the Obama administration hasn't fleshed out its proposal yet, other than to say it wants to jump-start the development of a six-year surface transportation bill with the \$50 billion up-front payment. Details aren't expected until either after the November 2 elections or early next year.

Third, the administration hasn't said where the \$50 billion to support an Infrastructure Bank will come from, other than a reference to elimination of energy industry tax breaks. The Infrastructure Bank will oversee a bonds program to pay for the projects.

The Obama proposal surfaces as legislation to establish a six-year surface transportation program is stalled in Congress. The White House said last week it envisions the proposal as a down payment on a new, multi-year surface transportation program.

The House subcommittee on Highways and Transit approved a six-year, \$500 billion surface transportation bill

(unnumbered) June 24, 2009. 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.)

One lobbyist close to the Department of Transportation believes the \$50 billion stimulus offer suggests that the Obama administration will actively seek money for a six-year surface transportation bill. "I think the President is ready to get behind a gas tax increase, a miles-driven tax or whatever is needed to pay for a six-year bill," said the lobbyist.

For now an extension of the existing surface transportation law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), is keeping surface transportation programs in the money until the end of the calendar year.

Despite all the obstacles before the President's initiative, it "at least is a step in the right direction" toward a multi-year highway bill, according to the House Transportation Committee staff member.

"As far as we can tell there is no incompatibility (with the House subcommittee bill)," said the staff member. "The President is still talking about a six-year bill. The \$50 billion injection of cash for next year will enable the states to do more projects right away. We also understand the policy will be compatible with the way money is distributed now, although the President hasn't put a dollar figure on a final six-year bill."

Senate Banking Committee Chairman Chris Dodd (D-Conn.) praised the initiative at a September 21 committee hearing. He also envisions the \$50 billion start-up as a bridge to a new multi-year transportation law. "A National Infrastructure Bank will build on our nation's legacy of bold, innovative investments in public infrastructure," he said. "It would complement our current infrastructure financing programs

in a manner that delivers taxpayers the best bang for their buck."

LIVABILITY: In announcing the infrastructure initiative September 6 the White House reinforced its support for livability projects by saying the \$50 billion would expand "investments in areas like safety, environmental sustainability, economic competitiveness, and livability - helping to build communities where people have choices about how to travel, including options that reduce oil consumption, lower greenhouse gas emissions, and expand access to job opportunities and housing that's affordable."

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

That complaint has been echoed often by some in the recreation community. They fear such programs as recreational trails, scenic byways and federal lands roads would be given short shrift compared to more suburban programs, such as Safe Routes to Schools.

But supporters of the livability approach note the House subcommittee's six-year bill already puts several rural recreation programs under an Office of Livability. Thus recreational trails, scenic byways and federal lands roads would be supervised by the livability office.

Still, warns the House committee staff member, the election could change that. "It is possible that after the election western senators could kill those livability programs and not replace them," he said.

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.

RESCISSIONS: Backers of trails projects are once again raising alarms about the possibility that states will take a disproportionate amount of money out of transportation enhancements in the latest round of rescissions. The rescission order (PL 111-226 of August 13) directs states to return \$2.2 billion in unspent old SAFETEA transportation money.

Already the Rails-to-Trails Conservancy (RTC) reports that the State of Florida has targeted transportation enhancements (TEs) for a disproportionate share of its rescissions. The state decided to take 20 percent of its total rescissions from TEs, even though TEs make up only 3 percent of Florida's surface transportation money. According to the conservancy, the state wants to cut \$24.7 million from TEs, and another \$3 million from recreational trails.

The conservancy says the action will hurt major rail-trail projects in St. Augustine, Pinellas County and Hillsborough County. Said Kevin Mills, vice president of policy for RTC, "There are critical trail connections that need funds and could be unduly delayed or lost because (the state) has not moved proposals through their process or preserved funds that could be spent going forward. This short-changes Florida's active transportation future."

The conservancy has written each state and each state transportation director asking them to give enhancements an even break. "Among the transportation programs subject to the rescission are three that support critical bicycle and pedestrian infrastructure investments: Transportation Enhancements, the Recreational Trails Program, and the Congestion Mitigation and Air Quality Improvement Program," Keith Laughlin, president of the conservancy wrote the state officials.

He went on, "Active transportation also reduces pollution, improves public health, and creates jobs. . . I urge you to preserve these key programs by rescinding no more than their proportionate share of your state's federal transportation funding."

Senate panel schedules, then postpones DoI money bill

The Senate Appropriations Committee last week canceled a scheduled September 16 mark-up of a fiscal year 2011 Interior and related agencies appropriations bill.

Sen. Dianne Feinstein (D-Calif.) reportedly requested a postponement because the Obama administration had requested at the last minute \$100 million more for offshore oil inspectors.

But Republicans suggested Democrats pulled the bill because they feared an amendment would succeed that would bar EPA from issuing climate change regulations.

If and when the committee does mark up a fiscal 2011 Interior money bill, it will be operating under a spending cap of \$32.3 billion, marginally more than the \$32.2 billion total of fiscal 2010, not counting stimulus money.

The House subcommittee on Interior appropriations approved a counterpart bill July 22 with a spending cap of \$32.2 billion.

Even if the Senate Appropriations

Committee approves a fiscal 2011 spending bill, Congress is not expected to complete it before the fiscal year begins October 1. In fact, we understand that a temporary continuing resolution to keep the government going through the November 2 elections is under development. The next fiscal year begins next Friday.

After the November elections the game plan calls for a last-ditch attempt to write a jumbo, stripped-down appropriations bill, with as many as a dozen individual spending bills wrapped inside.

And, as is widely predicted, if Congress can't put together such an omnibus money bill, appropriators may simply extend fiscal 2010 spending levels through the next fiscal year.

The House Appropriations Committee is attempting to keep secret the numbers in an Interior 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.

Here's the status of other appropriations 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.

Comments on AGO initiative concentrate on four themes

A highly unofficial survey of public input into President Obama's America's Great Outdoor (AGO) Initiative suggests 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.

And a survey of public input to AGO makes clear the national political distemper applies in spades to the outdoors. Comments from particular sets of users about competing users demonstrate some creative name-calling, particularly involving off-highway vehicle (OHV) use.

Some OHV users call their critics "eco-fascists," "anti-access agitators" and that old reliable, "environmental extremists." But one OHV critic may have topped that by describing an OHV user as an "IGNORANT IRRESPONSIBLE SELFISH DIRTBAG." The capitals are in the original.

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 these substantive strategies: (1) build on efforts outside the beltway, (2) help property owners protect prop-

erty, (3) help get young people outdoors and (4) build "a new generation of community and urban parks."

The AGO game plan has called for six task forces, including one on recreation, to complete first drafts of recommendations by September 15. Final drafts are to be completed the first week in October and final recommendations delivered November 15.

At the AGO website at midweek an increase in Park Service spending led in total comments with 2,563, followed by protection of wildlife corridors in national parks, 1,302; protection of natural resources from climate change, 1,125; and OHV use, 1,052. Here is a little background on our four themes:

PROTECT AMERICA'S TREASURES: Led by Secretary of Interior Ken Salazar, the Obama administration since its inception has talked of a need to protect America's Treasured Landscapes. Among other things Salazar has recommended an omnibus lands bill at the end of the year. However, the idea was set back earlier this year when House Republicans uncovered an internal Interior Department memo listing the possible designation of 14 national monuments, primarily on land managed by the Bureau of Land Management in the West.

Although the administration is reportedly running away from the implication that AGO is just a smokescreen for the designation of national monuments by the President, the concept continues to generate great interest.

Thus, the Sierra Club September 10 submitted its recommendations to the AGO that calls for protection of "our most vulnerable and special places," beginning with a national monument on the coastal plain of the Arctic National Wildlife Refuge in Alaska.

LINK THE OUTDOORS TO HEALTH: Obama included this among his four charges to his cabinet. In that line a coalition of health and park interests submitted a report to an AGO listening session in Chicago last month that offers prescriptions for linking citizens to healthful exercises.

The partnership, led by the Institute at the Golden Gate, the American Recreation Coalition and such well-known physicians as Michael Suk and Daphne Miller, compiled a dozen profiles of programs in this country and the United Kingdom designed to encourage more healthful activities.

The profiles describe programs where doctors in New Mexico prescribe outdoor activity for their patients, health insurance companies such as SeeChange Health reimburse patients for park visits, cities such as Chicago invest in fitness programs, and, of course, parks make it easier for citizens to visit and use facilities.

Separately, the Outdoor Foundation, an alliance of the human-powered recreation industry, conservationists and outfitters, submitted a report to AGO September 15 that focused on connecting youth to the outdoors. Among other things the foundation recommended an increase in green space and out-reach to youth through new media.

The foundation based its recommendations on a summit it conducted June 19-20 in New York with more than 500 youths. The report is available at: <http://www.outdoorfoundation.org>.

The Sierra Club in its report offered 27 individual recommendations to reconnect youth with the outdoors, beginning with the establishment of a "multi-agency coordinating council" with land managers, transportation officials, the White House and Michelle Obama's Let's Move campaign.

NPS SPENDING: The America's Great Outdoors website said this week it has received more comments on increased funding for the national parks than any other issue, followed by protection of wildlife corridors in the national parks. The website counted more than 2,500 comments on Park Service spending, most recommending an increase.

The National Parks Conservation Association (NPCA) has been conducting a decades-long campaign to boost spending for the national parks, both from federal appropriations and from friends of

the national parks. NPCA commissioned a poll in early June that found 69 percent of voters said federal assistance to the parks is "extremely important," despite budget concerns.

OHV BATTLE: Off-road vehicle users, including BlueRibbon Coalition members, have been out in force at the AGO listening sessions. The AGO has received some 1,050 comments on OHV use. The crucial issue is access to federal lands, with OHV users worried about decreases in miles of trails available to OHVs and environmentalists worried about damage to trails where the use is authorized.

Federal magistrate faults FS fee in dispersed rec area

A federal court September 16 may have dealt a blow to a Forest Service practice of charging entrance fees to recreation areas where amenities are not provided.

U.S. Magistrate Judge Mark Aspey in the U.S. District Court for Arizona said a visitor to the Coconino National Forest who parked in an undeveloped lot and camped in an area with no amenities did not need to pay the fee.

Fee opponents immediately said the magistrate's opinion may set a national precedent against the Forest Service practice of charging fees to enter high impact recreation areas (HIRAs), even if the visitor is in a portion of the HIRA that doesn't provide amenities.

Said the Western Slope No-Fee Coalition, "Within a HIRA (Forest Service officials) have been claiming the authority to charge a fee for any activity at all as long as the six amenities exist somewhere in the HIRA, no matter how scattered or how far away. This interpretation has resulted in visitors being charged fees to access millions of acres of dispersed undeveloped backcountry." The six amenities are developed parking, toilets, trashcans, interpretive information, picnic tables and security.

Judge Aspey agreed with the coal-

tion, "The Forest Service is specifically prohibited from charging a recreational amenity fee at sites or for uses where charging a recreational amenity fee is specifically prohibited."

But Aspey didn't say the Forest Service must not charge fees for entering HIRAs. He just said that the agency must ensure the areas where fee payors are visiting provide amenities. "However, dismissing this citation is not the death knell of the Red Rock Pass program," he said. The pass covers 160,000 acres. "The record before the Court reveals numerous recreation sites and locations within the Red Rock HIRA which qualify as 'areas' and where charging a recreational amenity fee would not violate the other provisions of the (law.)"

The judge went on, "Assuming an individual's recreational activities were not exempted from the uses for which no fee may be charged, requiring a Red Rock Pass for use of those areas would be appropriate." But he said the amenities must, to quote Forest Service guidelines, be "located in an integrated manner so they reasonably accommodate the visitor."

Recreationists have long complained that the Forest Service and the Bureau of Land Management (BLM) have used the HIRA fee to effectively charge visitors for general access to national forests. Aspey concurred, saying, "Congress expressed an intent to prohibit the Forest Service from charging citizens solely for parking at undeveloped parking sites or for causal use of remote sites, such as dispersed camping or hiking."

Congress authorized entrance fees to national forests and BLM land in the Federal Lands Recreation Enhancement Act (PL 108-447 of Dec. 8, 2004.)

After listening to recreationists' complaints two Democratic senators and two Republican senators last year introduced legislation (S 868) to repeal the law. The four are Montana Sens. Max Baucus (D) and Jon Tester (D) and Idaho Sens. Mike Crapo (R) and James E. Risch (R.)

The Obama administration has yet to weigh in on S 868, a factor that could determine the bill's fate. In tough economic times the administration may not be willing to give up the \$67 million per year the Forest Service collects and the \$19 million per year BLM collects.

The Park Service would feel minimal impacts from a repeal because the measure would not affect the agency's authority to charge \$173 million per year in entrance fees.

Critics of the law such as the Western Slope No-Fee Coalition charge that federal agencies have become too eager to make money from fees at the public's expense. Agencies retain 80 percent of fees.

CBO says FS cabin fee bill would cost \$145M over time

Sponsors of legislation (HR 4888) to establish flat fees for cabin owners in national forests have received a bit of bad news from the Congressional Budget Office (CBO.)

CBO says the bill passed by the House Natural Resources Committee July 22 would increase government spending by \$145 million over the next 10 years. The CBO analysis was included in a September 16 committee report.

"Based on information from the Forest Service, CBO estimates that implementing the legislation would increase direct spending by \$145 million over the 2011-2020 period; therefore, pay-as-you-go procedures apply," said CBO.

That means sponsors must come up with as much as \$19 million per year in offsets to comply with pay-as-you-go. Congress could always direct the Forest Service to take the money out of ongoing appropriations, but that would infuriate other recreation interests that do business with the national forests. The fiscal year 2010 recreation program appropriation for the Forest Service was \$285.1 million.

The chief sponsor of the bill, Rep. Doc Hastings (R-Wash.), is aware of the CBO report. Said his office, "Mr. Hastings is continuing working with CBO and cabin owners to ensure the bill is both revenue neutral and maintains the original intent of the legislation; to guarantee cabin owners fair, reasonable fees."

Under existing Forest Service practice fees can shoot up dramatically when new appraisals of the value of the cabins are performed. There are 14,000 cabins in the national forests that are privately owned. The owners in turn pay the Forest Service a yearly fee to retain use of their lots.

To prevent fee spikes the bill would establish five levels of flat fees based on the value of cabins. Tier one would pay \$500, tier two \$1,000, tier three \$2,000, tier 4 \$3,000 and tier 5 \$4,000. The legislation would also establish a flat transfer fee of \$1,000 plus five percent for sales between \$250,000 and \$500,000 and 10 percent on sale of more than \$500,000.

In testimony on the bill in April Forest Service Deputy Chief for the National Forest System Joel Holtrop criticized details of the bill, such as the fee schedules. "Our analyses indicate that many of the proposed fees are less than those which would be paid under current law and below market value for many of the lots," Holtrop said.

He added, "To reduce the likelihood of (windfall) projects, the proposed fees scheduled should include additional tiers or the fees with the tiers of the draft bill would be increased."

At the same time on the positive side, Holtrop acknowledged, the bill would simplify administration of cabin fees for the Forest Service.

The bill, with 28 cosponsors from both political parties, including numerous House Natural Resources Committee Democrats, is a natural candidate for an omnibus lands bill, if House and Senate leaders decide to produce one later this

year. However, the \$145 million price tag poses problems.

In its report CBO forecasts a double budget whammy, one from reduced fees and one from using fee revenues for administrative costs. "Fees collected from cabin owners by the Forest Service would be about \$75 million less than would be collected under current law (such losses are shown as an increase in direct spending)," said CBO. "In addition, the agency would be allowed to spend some of the fees collected on administrative expenses, thus increasing direct spending by an additional \$70 million over the next 10 years."

Rec establishment: FS should acknowledge role in planning

Recreation users and the recreation industry joined forces last week to demand a greater role for recreation in the management of national forests.

A broad coalition of recreation interests September 13 wrote Forest Service Chief Thomas Tidwell and asked that recreation be given greater emphasis by the agency in new land use planning guidance. The coalition said early backup planning documents don't acknowledge the prominence recreation is assigned in forest management by 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," said the Coalition for Recreation in the National Forests. "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."

The coalition includes 72 diverse interest groups such as the National Rifle Association, the Theodore Roosevelt Conservation Partnership, and Forest Service retirees.

The recreation coalition concluded, "We are greatly concerned by the lack of emphasis placed upon recreation

in the documents associated with the proposed new Planning Rule and will not support a final rule that fails to correct this flaw."

The recreationists' complaints may be getting through. We understand that Forest Service leaders have scheduled a meeting with recreation leaders for September 27. Chief Tidwell; Joel Holtrop, deputy chief for the National Forest System; and Jim Bedwell, recreation director; are tentatively expected to sit in as are representative of the ski industry, outfitters and others.

Having received 26,000 comments on its notice of intent to prepare a rule and held 40 meetings, the service said last month it has now begun to draft a proposed 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.

Separately, a subset of recreation users of the public lands is becoming increasingly concerned that the Forest Service will use a new planning rule to force users to pay for rec programs.

As we reported in the last issue of *FPR*, the users, mostly backcountry hikers, object to a phrase in the draft Forest Service planning document called "Recreation Approach." It talks of "(ecologically and fiscally) sustainable recreation" and to the users those are code words for pay-your-own-way.

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.

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.

In general interest groups in their comments to the Forest Service have 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.

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 ad-

equately evaluate the environmental impacts of the rules.

Grand Teton exchange could add state lands to park

Wyoming Gov. Dave Freudenthal (D) said recently that a new federal appraisal of state lands within Grand Teton National Park may lead to a land exchange, with the state land going to the Park Service.

Freudenthal had been holding over the Park Service's head the possibility the state might sell the lands, appraised at \$107 million, for private development.

The state owns the surface and subsurface rights to 1,366.32 acres within Grand Teton, according to the Wyoming State Lands office, as well as an additional 40 acres of just subsurface rights.

Last month Freudenthal sat down with NPS Director Jon Jarvis and Assistant Secretary of Interior for Fish and Wildlife and Parks Tom Strickland to discuss the situation.

Under the outlines of the negotiations, according to Wyoming newspapers, in return for giving up the state inholdings Wyoming would receive federal coal interests near ongoing coalmines. Coal companies produce a huge percentage of the nation's coal from mines in the Powder River Basin.

Wyoming is the leading coal producing state in the country and the Powder River Basin alone produces more than twice the amount of coal each year as second-place West Virginia, and more than the entire Appalachian region. While the federals appear to have a valuable bargaining chip, the loss of royalties could pose a budget problem.

At any rate at a September 8 press conference Freudenthal said his people would meet with BLM and the Park Service and attempt to reach an agreement. "But," he said, "I wouldn't think it would take the state land office very

long to go through and decide whether or not they're comfortable with the (\$107 million) appraisal. It sounds in kind of the right neighborhood."

Secretary of Interior Ken Salazar's office confirmed that talks were continuing, saying cryptically, "We are working with Gov. Freudenthal to address his concerns."

Another problem, Freudenthal will leave office on January 3. Can a deal be done that quickly? "Yes," said an aide, "the governor is hopeful, and is working hard to ensure that this deal is wrapped up before this term ends (on Jan. 3, 2011.)"

In July Freudenthal was talking about a deal that would begin with a down payment to the state from the Land and Water Conservation Fund, followed by a share of revenues from coal-lease bonuses. That way the feds would hold onto the coal leases and the state would simply receive an agreed to share of the lease bonuses. The feds are expected to sell about a dozen new coal leases over the next 18 months.

Fire season - thus far - well below the 10-year average

Despite a few well-publicized conflagrations, to date this has been the least active fire season in the last 10 years, and appropriators are counting on it staying that way.

Through Wednesday (September 22) the National Interagency Fire Center said that 48,302 fires have been identified this year in the country. The next least active year, 2003, saw 48,455 fires by this time. And the 2.7 million acres burned this year is less than half the 10-year average of 5.9 million acres.

Said the center, "Seventy-nine large fires are being managed to achieve multiple objectives throughout the states. Uncontained large fires include only fires being managed under a full suppression strategy."

The relatively small number of devastating fires is doubly good news for public lands recreation. First, the land has not been scorched and recreation areas closed to the public. Second, the Forest Service has not had to raid its recreation budget for emergency money to fight fires.

Congressional appropriators and land management agencies are aware of the relatively quiet fire year. When the House subcommittee on Interior appropriations marked up a fiscal year 2011 appropriations bill in July, chairman Jim Moran (D-Va.) said agencies anticipated a carry over of \$500 million in fire suppression money from fiscal 2010 and earlier.

"In addition to the funds provided through this bill, the Interior Department and Forest Service predict that they will carry over into 2011 more than \$500 million in fire suppression funds from prior years," Moran said.

The subcommittee both did and did not go along with an Obama administration fire suppression request for fiscal 2011. It met the total suppression request for the Forest Service of \$1.168 billion, but did not approve a request for a Presidential emergency contingency fund of \$282 million. The subcommittee repeated the exercise for the Interior Department, knocking out a contingency fund but providing a full fire suppression request.

The most dangerous recent fire - Machine Gun near Salt Lake City - has spread over six square miles and forced neighborhoods to evacuate. The fire is now 50 percent contained and half the evacuees from Herriman, Utah, have returned to their homes. More than 4,000 acres have burned in the fire that is believed to have been started by machine gun fire at Camp Williams, a National Guard training base.

The National Interagency Fire Center provides a daily update on the fire season at <http://www.nifc.gov/>. Go to Fire Information and then National Fire News.

Notes

Does Philly exchange end war? A long, nasty dispute about a plan to build a private Revolutionary War museum and conference center within Valley Forge National Historical Park may have ended last week. The proponent of the museum, philanthropist H.F. "Gerry" Lenfest, agreed to trade to the Park Service his 78-acre site within Valley Forge. In return he is to receive three-quarters of an acre within Independence National Historical Park where he might someday build a Revolutionary War museum. Lenfest will also receive \$3.2 million from the Park Service. There are no architectural plans yet for the new museum, but a \$100 million price tag is being circulated. The signing of the land exchange ended for now a war over the proposed museum in Valley Forge between Lenfest and conservation groups, led by the National Parks Conservation Association. The conservationists said the middle of Valley Forge was no place for a conference center, even if it was devoted to the Revolutionary War. Estimates of the price of the museum/conference center ranged as high as \$375 million. At the Independence site Lenfest said he might someday build a museum. The tiny site presumably rules out a conference center. Attending the signing of the exchange September 11 were Gov. Edward Rendell (D), Philadelphia Mayor Michael Nutter (D) and Secretary of Interior Ken Salazar.

Murkowski remains at energy. Senate Republicans September 21 decided to retain Sen. Lisa Murkowski (R-Alaska) as the ranking Republican on the Senate Energy Committee. They had considered replacing her with Sen. Richard Burr (R-N.C.) Murkowski lost the Republican nomination for her seat August 24 to Joe Miller and has since said she will conduct a write-in campaign for the post. Thus she is running against a Republican. While Burr is a more conservative Republican than Murkowski, he is also the only Republican senator to cosponsor legislation (S 2747) to provide full funding for the Land and Water Conservation Fund. At the same time Burr has sided with off-road vehicle users in their fight with the Park Service over

access to the beaches of Cape Hatteras National Seashore. Although the Senate Energy Committee will hold few additional hearings this year, the Senate still may address important legislation, such as an omnibus lands bill.

Trails advocates fight with AAA.

An executive of AAA complained recently about the diversion of federal highway money for bicycle and pedestrian trails, touching off an angry letter from the Rails-to-Trails Conservancy (RTC.) An AAA mid-Atlantic president called for the reduction of highway spending for bicycle and pedestrian trails. RTC President Keith Laughlin wrote AAA President Robert Darbelnet to note that (1) AAA encourages its members to get out of their cars and explore the outdoors and (2) federal rail-trails spending constitutes less than \$1 billion of the \$89 billion the federal government spends each year on surface transportation.

DU worries about CRP sign-ups.

The Ducks Unlimited (DU) conservation group said last week it fears that the Prairie Pothole Region (PPR) of the country could lose as many as 250,000 acres next year. DU says that is the amount of pothole habitat that may not be renewed in the latest round of sign-ups under a Conservation Reserve Program (CRP.) Secretary of Agriculture Tom Vilsack said September 14 that farmers applied to enroll more than 4.8 million acres in CRP in the annual sign-up. Vilsack said about 4.3 million acres would be accepted. The cap on CRP acreage, set by Congress, is 32 million. But DU said that owners of about 250,000 acres in the Prairie Pothole Region were not among the owners of the 4.8 million acres who did apply. "The resulting loss of CRP acres in the PPR will mean fewer acres available for nesting ducks when they arrive on the breeding grounds next year," said Scott McLeod, DU governmental affairs representative for agricultural policy. DU estimates a decrease of more than 100,000 ducks next year in an annual flight count. DU took its concerns about the loss of prairie potholes to the America's Great Outdoors initiative begun by President Obama. DU President Dale Hall said September 21,

"At DU, we believe it is critical that important wildlife habitats across the country remain intact and be secured from development or be restored. Our national heritage of wildlife and other renewable resources is at risk unless we devote more financial resources to their future."

CBO: Valles Caldera shift to cost.

Legislation to transfer the Valles Caldera Preserve in New Mexico from the Forest Service to the Park Service would cost \$16 million over the next five years, the Congressional Budget Office (CBO) reported September 10. But the transfer would not violate Congress's "pay-as-you-go" rules because the extra money would presumably be taken out of existing appropriations. When Congress designated the preserve on 88,900 acres of Santa Fe National Forest land in 2000, it transferred management to a Valles Caldera Trust under the assumption the trust would raise enough money to be self-sustaining. But chief bill sponsor Jeff Bingaman (D-N.M.) said the trust couldn't come up with \$15 million for construction and maintenance and he doubts that will happen. So he called for a transfer to the Park Service. The Senate Energy Committee approved his bill (S 3452) August 5, setting up the possibility of floor action.

Enviros don't buy EPA lead claim.

Sounding like they were about to launch a lawsuit, several conservation groups a fortnight ago petitioned EPA for back-up documents that led to an EPA decision not to ban the use of lead in hunting ammunition. EPA in August said that the Toxic Substances Control Act exempts lead ammunition from the jurisdiction of the law. But the conservationists are citing chapter and verse of Congressional documents that, they say, indicates Congress explicitly included lead shot within the scope of the act. They note in a House committee report a statement that the law "does not exclude from regulation under the bill chemical components of ammunition which could be hazardous because of their chemical properties." The American Bird Conservancy, the Center for Biological Diversity and other groups argued in a petition for a ban on lead shot to EPA 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.

DoI building renamed for Udall.

Secretary of Interior Ken Salazar, Sen. Tom Udall (D-N.M.) and Sen. Mark Udall (D-Colo.) participated in a ceremony at the Interior Department headquarters September 21 that renamed the main Interior building the Stewart Lee Udall Department of the Interior building. President Obama signed into law (PL 111-176) June 8 legislation that authorizes the redesignation. Udall died at 90 March 20 after a fall at his home in Santa Fe, N.M. He served as secretary of Interior during the Kennedy and Johnson administrations in the 1960s. During his watch Congress passed the Wilderness Act, the Land and Water Conservation Act, the National Historic Preservation Act, the Wild and Scenic Rivers Act, and the Endangered Species Act. Stewart Udall was the older brother of former Rep. Morris Udall (D-Ariz.), who made a run at the Presidency. Stewart Udall was the father of Tom Udall and Morris Udall was the father of Mark Udall.

Conservationists push LWCF bill.

Conservationists and preservationists asked the Senate September 17 to move legislation this fall to guarantee full funding for both the Land and Water Conservation Fund (LWCF) and the Historic Preservation Fund. The LWCF guarantee, but not the Historic Preservation guarantee, is attached to an energy bill (S 3663) that responds to the Gulf oil spill. However, support for S 3663 is waning as the Gulf crisis fades from the headlines and as President Obama's political fortunes have dwindled. But Sen. Robert Casey (D-Pa.) and the interest groups at the National Historic Landmark Fairmount Waterworks asked the Senate to take up S 3663. "Over the last 45 years, the fund has helped to protect pieces of our Commonwealth's landscape and to preserve some of our greatest national treasures," said

Casey. "This is why it is essential that Congress provides consistent and sufficient funding so that we as a nation are able to conserve parts of our unique and beautiful heritage." For its part the House approved a more comprehensive energy bill (HR 3534) July 30 that would guarantee money for LWCF and Historic Preservation 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.

Enviros take aim at target areas.

Conservationists in Arizona and Nevada intend to celebrate Public Lands Day tomorrow (September 25) by cleaning up target ranges on National Conservation Lands managed by the Bureau of Land Management (BLM.) The conservationists complain that target shooters not only damage important natural resources, such as cacti, but also leave detritus behind they have used for targets, such as television sets and political signs. Friends of Red Rock Canyon will focus on Lucky Strike Canyon in the Red Rock Canyon National Conservation Area outside Las Vegas. Friends of Ironwood Forest will focus on the El Cerrito Represso area near the Ironweed Forest National Monument near Tucson, Ariz.

House members boost airstrips.

A bipartisan group of House members persuaded the House September 15 to pass a resolution supporting remote airstrips on the public lands. The resolution (H Res 1473) received the support of House Transportation Committee Chairman James Oberstar (D-Minn.) Supporters such as Rep. Mike Simpson (R-Idaho) said the airstrips not only provide a life line in emergencies but also provide access to remote recreation areas. "They enable search and rescue, fire management, research, disaster relief and wildlife management," he said. "In the event of mechanical problems or inclement weather, they serve as emergency landing sites when larger airports are out of reach. They allow public access to some of the most beautiful, remote Federal lands in America, regardless of one's physical ability, . . ." There are critics. An alliance of stakeholders in

eastern Montana September 1 opposed the inclusion of six airstrips in a new management plan for the Missouri Breaks Monument managed by BLM. "Most of the newly authorized 'airstrips' are in the heart of the Bullwhacker area, which the Proclamation describes as containing 'some of the wildest country on all the Great Plains,'" said the Friends of the Missouri Breaks Monument. "Allowing low level flights from aircraft hopping from one strip to another does not preserve this wild character."

Welling to head NPS climate. The Park Service has named Dr. Leigh Welling to head a new Climate Change Response Program. Welling has coordinated NPS climate change programs for the last three years. She served as the Park Service national coordinator for research learning centers from 2006 to 2008. Prior to that she worked as the director of the Crown of the Continent Research Learning Center in Glacier National Park in Montana for five years.

PEER objects to FS media policy.

The environmental group Public Employees for Environmental Responsibility (PEER) went to court September 9 to obtain more information about a Forest Service "gag order" on media contacts. PEER objected to an Aug. 25, 2009, memo from Chief Thomas Tidwell to senior managers ordering all employees to coordinate with the Washington Office contacts with national media. The directive requires employees to notify the national press office "whenever you receive media inquiries" on "any" subject. Emphasis Tidwell's. "President Obama promised a new level of transparency but on any issue of potential controversy, the same old penchant for secrecy still controls," said PEER Counsel Christine Erickson.

American Forests is really old.

The American Forests association on September 10 celebrated its 135th birthday. American Forests says it has planted 33 million trees in that time. The association says it is not slowing down. "We will continue doing our best to protect and restore forests around the world," the association said in an anniversary message. "We're planting 5 million trees this year toward our goal to plant 100 million trees by 2020."

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.