

# Federal Parks & Recreation

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## New NPS Centennial funding sources have critics

The idea of using three pots of money from federal energy programs to help pay for a Park Service Centennial Challenge program is not going down well with the beneficiaries of those programs.

As *FPR* reported in Bulletin #10 October 22, the Interior Department and the House Natural Resources Committee are discussing the possibility of providing \$100 million per year to the Centennial Challenge from these three revenue sources:

- \* \$23.3 million in fiscal 2008 (and rising in out years) from a \$1,866 fee for each application for permit to drill on oil and gas leases on public lands,

- \* \$41 million in fiscal 2008 (and rising in out years) from a two percent deduction of the state share of oil and gas royalties from public lands development, and

- \* \$50 million in fiscal 2008 (and in out years) from the cancellation of an ultra-deepwater oil and gas research program in the Department of Energy.

Sen. Pete Domenici (R-N.M.), ranking Republican on the Senate Energy Committee and ally of the oil and gas industry, is not happy. "There doesn't seem to be support for this, and that's an understatement," said an aide to the senator, who was the lead architect of an Energy Policy Act of 2005 (PL 109-58 of Aug. 8, 2005) that the Centennial Challenge would tap into. "Any time you talk about taking money away from ongoing programs you will have people objecting."

Wyoming Gov. Dave Freudenthal (D-Wyo.) told *FPR* he objected to the proposal to remove two percent from the state share of onshore oil and gas roy-

alties. Wyoming receives far more royalties than any other state.

"Clearly, these proposals show that the feds can't manage their own finances and they are continuing to try and use the states to bail themselves out," said Freudenthal in a statement he sent us. "In agency after agency in Wyoming, we see our state struggling to make up for lost federal funds or lost services that used to be funded by the U.S. government. Now feds are not just planning on shifting the service burden, but they're also taking money outright that belongs to the states."

The energy industry objects to the two other legs of the stool - the fee to process applications for permit to drill and the deepwater oil and gas research program. "The permitting fee we have consistently opposed because we're already paying rents and royalties," said Lee Fuller, vice president of government relations for the Independent Petroleum Association of America. Indeed industry pays more than \$4 billion per year to federal and state governments in oil and gas royalties.

And industry objects to the cancellation of the ultra deep-water research program. "We think that is a huge mistake," said Fuller. "That's basically removing a research and development program for oil and gas development in the United States that independent rely on for technology."

It should be noted that the oil and gas industry is reaping record profits from energy development on federal lands. And public lands states are taking home \$2 billion per year in royalties. Freudenthal's Wyoming alone receives as much as \$1 billion per year in royalties and Domenici's New Mexico more than \$500 million.

For now Centennial Challenge supporters are waiting to see how House Natural Resources Committee Republicans come down on the proposal, largely attributed to the Interior Department. Said Derrick Crandall, president of the American Recreation Coalition and member of a coalition of interest groups that

support the Centennial Challenge, "The Democratic staff seems pleased that the Interior Department has come up with a significant proposal for offsets. But they are not buying in yet."

He added, "The Democrats don't want a battle over offsets. Unless the Republicans accept it, they are not going to a mark-up with Republicans voting against it."

An aide to Rep. Stevan Pearce (R-N.M.), one of several key Republicans on the issue, said his boss and other western Republicans not only have ideological problems with the proposal but also regional ones. Western states would pick up much of the tab for a program that would benefit all regions of the country.

Summed up the staff member, "Mr. Pearce's primary concern is that if the parks need to raise revenue, it is within their budget if they operated more efficiently. He'd like to see (the Park Service) eliminate waste." Pearce chaired the House subcommittee on National Parks in the last Congress.

No deal is on paper and discussions are continuing in preparation for a possible November mark-up of a Centennial Challenge bill (HR 3094) in the House committee. But a working paper that all parties are aware of would pay for the program from the three sources of money.

Interest groups ranging from environmentalists to the powered recreation industry are working on committee members, committee staff or senators, according to association members.

If an agreement is brought off, it would help Congress and the administration overcome the single biggest barrier to a Centennial Initiative designed to upgrade the National Park System by its 100th anniversary in 2016 - money.

There is a further complication. A fiscal year 2008 Interior appropriations bill (HR 2643) as passed by the House counts on the three sources of revenues. If that money were removed

from the bill, appropriators would have to make up the \$100 million from other revenues or by spending reductions.

The Senate Appropriations Committee version of HR 2643 only includes the two percent deduction from state royalties, with the money allocated to federal expenses in administering the oil and gas leasing program.

But as one old appropriations hand said, he who gets there first will probably get the money.

As originally drafted, the lead Centennial Challenge bill (HR 3094) in committee would pay the \$100 million tariff by imposing new fees on commercial users and lessees of public lands. But that provision is considered a marker at best and a nonstarter at worst. House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) and subcommittee on National Parks chairman Raúl Grijalva (D-Ariz.) are the principal sponsors of HR 3094.

The Bush administration, the originator of the Centennial Initiative idea, has developed its own bill (S 1253, HR 2959) that would pay for the Centennial Challenge with \$100 million per year in guaranteed off-budget funding matched by up to \$100 million per year in contributions from nonfederal partners. However, Rahall and Grijalva have criticized important provisions of that bill, such as the prominent role it would assign private interests in national park matters.

The \$200 million per year in the Bush bill would be allocated to the Centennial Challenge for non-core operations projects. The third leg of the initiative consists of an additional \$100 million per year of appropriations for core projects. Congress is well on its way to approving appropriations for core projects in a fiscal year 2008 Interior and related agencies money bill (HR 2634.)

As introduced, the lead Democratic House bill, however, barely acknowledges a role for partners. That could change because a broad coalition of interest

groups has recommended revisions to HR 3094 that would give a prominent role to partnership payments.

That could be crucial to the success of both the Centennial Challenge and the Centennial Initiative because the Interior Department as of August had already identified \$301 million worth of contributions. The Park Service had also identified \$364 million worth of projects for fiscal years 2008 and 2009. Icon parks would receive 19 percent of the money, large parks 35 percent and small parks 18 percent.

The discussions centering on revenue sources for the Centennial Challenge have reportedly been conducted by top Interior Department officials with both Democratic and Republican leaders of the House Natural Resources Committee.

As envisaged by negotiators, the \$100 million per year from the three energy sources would not preclude the Park Service from accepting partnership pledges. Those pledges would effectively supplement the \$100 million per year in energy money.

Meanwhile, the National Park Foundation held a leadership summit October 15 and 16 that focused on partnerships. It is understood the foundation may be willing to play a major, substantive role in the Centennial Challenge as a conduit between philanthropists and the Interior Department.

While the House Natural Resources Committee is taking the lead in writing a Centennial Challenge bill, Domenici will play a major role in deciding what funding instruments HR 3094 uses. His assistance will almost certainly be necessary to pay for the Centennial Challenge with energy industry and state money.

## **House approves six new NHAs and extends nine old ones**

The House approved a multi-faceted national heritage areas bill (HR 1483) October 25 that would increase federal

spending for nine existing areas and establish six new ones. The vote was 291-to-122.

Despite the large margin of victory for the bill, Republican critics put up vociferous opposition. They criticized the bill for risking both private property rights and local government control, or both.

But Democrats and their Republican allies countered that the legislation contains standard private property protection language used in previous NHA laws, and it should suffice.

Besides, said House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.), now is the time to act. "The Congress can either provide the program with the tools and support it needs to continue, maturing into a successful preservation model, or the Congress can turn our backs on heritage areas and leave local communities to fend for themselves as they try to save those things that make them special, that make America special," he said.

But Rep. Rob Bishop (R-Utah) complained that the bill would not allow landowners to opt out of an NHA, a right that was included in previous NHA bills. "Why are we treating these heritage areas different than the precedent we established for the other heritage areas?" he asked. "It is not an additional burden to the management. It would go a long way to assuring constituents that their rights would be protected."

The Senate Energy Committee this year has approved bills to establish seven new NHAs (including three that are in the House-passed bill) and to authorize a study of an eighth. However, various holds on committee bills imposed by senators concerned about the cost of legislation have prevented Senate action.

To circumvent the holds, the committee has packaged those initiatives with other committee bills into two jumbo bills (S 2179 and S 2180) in the hopes the weight of the jumbo package

will convince senators to set the legislation free.

HR 1483, introduced originally by Rep. Ralph Regula (R-Ohio), would increase the spending cap on these nine NHAs from \$10 million to \$15 million: National Coal Heritage Area in West Virginia, the Tennessee Civil War Heritage Area, the Augusta Canal NHA in Georgia, the Steel Industry American Heritage Area in Pennsylvania, the Essex NHA in Massachusetts, the South Carolina National Heritage Corridor, America's Agricultural Heritage Partnership in Iowa, the Ohio & Erie Canal National Heritage Corridor in Ohio, and the Hudson River Valley NHA in New York.

In addition the bill would establish six new NHAs: Journey Through Hallowed Ground NHA in Pennsylvania, Maryland, West Virginia and Virginia (HR 319); Niagara Falls NHA in New York (HR 713); Muscle Shoals NHA in Alabama (HR 1145); Freedom's Way NHA in Massachusetts and New Hampshire (HR 1297); Abraham Lincoln NHA in Illinois (HR 1625); and Santa Cruz Valley NHA in Arizona (HR 1885.)

The chairman of the Parks subcommittee, Rep. Raúl Grijalva (D-Ariz.), suggested that Bishop's complaints about private property rights were exaggerated. He cited a Government Accountability Office study that solicited specific examples of NHAs interfering with private property.

"Not one instance came up in that study," said Grijalva. "I just want to reaffirm that these projects, these heritage areas are cooperative, bipartisan and truly deserving of the designations."

Bishop countered that the report was flawed because GAO didn't actually interview any private property owners.

As it has been all year, the Journey Through Hallowed Ground NHA was the most controversial proposal on the House floor. Rep. Roscoe Bartlett (R-Md.) said that he used to be a supporter of the bill until he realized that Virginians would oversee land in Maryland and West Virginia, as well as Virginia.

"If you read the fine print in this bill, you will see that there is a Virginia-based, Virginia-controlled designated management entity that has an exclusive vision that I don't think is consistent with most of the voters in my district," he said.

Indeed, the bill says, "(2) LOCAL COORDINATING ENTITY - The term 'local coordinating entity' means the Journey Through Hallowed Ground Partnership, a Virginia non-profit, which is hereby designated by Congress."

Regula said NHAs are well worth the money. "(W)hat we found is that we get a huge outpouring of community support, foundations, village councils, private individuals who support this," he said. "For every dollar of Federal support, there's probably been \$10 of local community involvement because they appreciate the recreational values. They appreciate the family values that come from using these facilities. They appreciate what it means to have this kind of thing in our community."

Except for the holds the Senate is also in position to move on NHA legislation. The Senate Energy Committee September 18 cleared for Senate action legislation to establish a national NHA program, as well as a half-dozen individual NHA bills.

The Senate committee action consisted of committee reports that sum up the need for legislation. The package includes a bill (S 278) that would establish national standards and a national policy. (Ed. Note. We erred in the October 5 issue of *FPR* when we said the omnibus House bill includes the national standards bill. It does not. It does, however, apply the standards that are in S 278 to the individual bills in HR 1483), according to the House Natural Resources Committee.)

The Bush administration has long demanded that Congress establish national standards before approving individual NHAs. When the Senate and House committees have held hearings on individual bills, Park Service witnesses have said the administration insists

that Congress approve a national bill before moving individual bills. The administration did not issue a statement of policy on HR 1483 before the House acted, however.

The five individual NHA bills approved by the Senate committee would designate an Abraham Lincoln NHA, S 955; Journey Through Hallowed Ground NHA, S 289; Niagara Falls NHA, S 800; Sangre de Cristo NHA in Colorado, S 443; and a South Park NHA in Colorado. The first three were also passed by the House committee.

### **Senate Democrats delay action on money bills, once again**

Congress and the White House are playing their annual game of Chicken over fiscal year 2008 domestic appropriations bills, a game that may not be completed until December. Or, even, until next year.

Senate Democratic leaders do not intend to bring to the floor next week either a fiscal year 2008 Interior spending bill (HR 2643) or a fiscal 2008 Energy and Water bill (HR 2641), according to the Senate Appropriations Committee. The Senate did approve a fiscal 2008 Transportation bill (HR 3074) September 12, but the House and Senate have made no move to take the bill to conference.

Standing in the way of all the bills is a veto threat from President Bush. To keep the government in money until November 16 Congress approved a temporary spending resolution (PL 110-92.)

The delayed money bills cause varying degrees of difficulty for program managers, but few like it. "It has been a pattern for the last 20 years so we're getting used to it," said Michael Wilson, chief of state and local assistance for the Park Service. "But certainly the further in advance we receive the money the better off the states are in their planning."

For Wilson's main program - the

state side of the Land and Water Conservation Fund (LWCF) - states may obligate money from a particular appropriations bill for three years. "It depends on how fast a state obligates money," he said. "Some states still have (fiscal 2006 money left and some have (fiscal 2007) money left." The grants are allocated proportionately by formula to states.

The federal side of LWCF faces a different problem because appropriations are earmarked for specific projects. Until Congress approves fiscal 2008 earmarks, federal land managers can't begin work on the projects. The delay won't bother the Bush administration, which recommended only \$66 million in federal land acquisitions in fiscal 2008, far below the \$160 million the Senate Appropriations Committee approved, for instance.

Congress and the White House haven't reached agreement on appropriations bills because they differ on how much money to spend on domestic programs. The Democrats in Congress are asking for major increases in spending after a decade of declining appropriations for park and rec programs.

The House approved its version of an Interior bill (HR 2634) June 27 with \$2 billion more than the President recommended, \$27.6 billion compared to a request of \$25.6 billion. The Senate Appropriations Committee approved a counterpart to HR 2634 (S 1696) June 21 with \$1.5 billion more than the administration request.

Similarly, the House approved an energy and water bill (HR 2641) July 17 that would increase fiscal 2008 spending for the Corps of Engineers alone by \$713 million more than the administration requested, \$5.584 billion compared to an administration request of \$4.871 billion. The Senate Appropriations Committee approved its version of an Energy and Water bill June 28 that would increase Corps spending by \$577 million above the administration request.

Finally, the Senate version of a Transportation appropriations bill (HR

3074) exceeds the administration request by \$3.1 billion, according to the Office of Management and Budget.

Congressional staff members make clear that this dispute will not be resolved by November 16 when the interim spending measure expires. One appropriations committee staff member guessed that Congress would put together an omnibus bill in "December." Others guess it will take even longer to complete all bills because President Bush will almost certainly veto an omnibus bill.

In an October 26 statement Bush chided Congress for not moving appropriations bills. "And today Congress set a record they should not be proud of: October the 26th is the latest date in 20 years that Congress has failed to get a single annual appropriations bill to the President's desk," he said.

## **Senate bill would implement WHCCC partnership proposals**

Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) introduced legislation (S 2231) last week that would smooth the way for partnership programs that transcend the usual land management agency borders.

The legislation, introduced at the request of the Bush administration, would carry out recommendations of a 2005 White House Conference on Cooperative Conservation (WHCCC.)

The bill would not so much establish new programs as it would provide authority for agencies to carry out specific tasks related to a dozen existing cooperative conservation programs. Among other things the bill would establish a pilot program to tackle large-scale projects that cross several levels of government and several agencies of the federal government.

Federal agencies that might be involved in such projects include the Park Service, the Fish and Wildlife Service, the Bureau of Land Management, and the Forest Service.

Although Bingaman introduced S 2231, he has no plans yet to consider the bill in committee. "We introduced it as a courtesy," said a committee staff member. "It doesn't look particularly controversial but we're reserving judgment until we can go over it in some detail."

The White House Conference on Cooperative Conservation was hosted by the Council on Environmental Quality, the Departments of the Interior, Agriculture, Commerce, and Defense, and the Environmental Protection Agency. The conference was held August 29-31, 2005, in St. Louis.

The idea of the conference (and the resulting legislation) is to foster cooperation among federal land management agencies, states, local governments, nonprofit groups, and for-profit organizations in advancing conservation.

"As a result of this legislation, conservation efforts will move beyond isolated projects, without connection or coordination," said Deputy Secretary of Interior Lynn Scarlett on announcing the drafting of the bill June 19. "The Cooperative Conservation Enhancement Act makes everybody a partner and enhances the incentives for landowners and others to conserve lands, water and wildlife and to coordinate conservation activities across jurisdictions."

The cooperative conservation movement, advanced most prominently by former Secretary of Interior Gale Norton, has not been without controversy. When the Bush administration kicked off the cooperative conservation movement in 2003, critics complained that it would soak up appropriations that used to go to old-line conservation programs.

Environmental groups such as The Wilderness Society and Defenders of Wildlife charged the administration and the Republican Congress with a sleight-of-hand. The groups said the Republicans were actually reducing spending on such programs as the federal and state sides of the Land and Water Conservation Fund to finance such programs as a Coop-

erative Endangered Species Fund, Private Stewardship Grants, and Landowner Incentive Program. The Fish and Wildlife Service (FWS) runs the last three programs.

The administration counts those last three programs among the Cooperative Conservation programs it requested \$324 million for in fiscal year 2008. The other programs include state and tribal wildlife grants, a FWS coastal program, Partners for Fish and Wildlife, a multi-agency Healthy Lands Initiative to ameliorate the impacts of energy development, and many more.

In the Working Landscapes Project Act, S 2231 would authorize the Secretary of Interior to use cooperative conservation money from the budget for three years for major projects. "These costs might include costs associated with governance, such as the hiring of an executive director, or costs of support services or dissemination of information," says a summary of the bill provided by the Interior Department. The money would be awarded competitively.

Concluded Scarlett in a letter to Congress on the greater bill (and not just the landscapes project), "If enacted, this new authority will reduce barriers to the use of partnerships in meeting our resource management obligations, and will enhance our collaborative efforts to conserve and protect natural resources and the environment for which the Department is responsible,"

## **Wildlife and wetlands bills advancing in House, Senate**

Congress is moving on several fronts to protect the nation's wildlife and wetlands with sweeping legislation.

Most immediately, a House-Senate conference committee is expected to go to work on comprehensive energy legislation (HR 6, HR 3221) that would make permanent a wildlife conservation (non-game) program. It is tied to a larger proposal to protect wildlife across the

country from global warming. Last month Sen. Sheldon Whitehouse (D-R.I.) introduced a counterpart Senate bill (S 2204) that includes both the nongame and global warming provisions.

On the wetlands front bills have been introduced in both the House and Senate (HR 2421, S 1870) that would clarify that a Corps of Engineers/EPA wetlands construction permit program would apply to most waters in the country. A Supreme Court decision implied that the program should apply only to navigable waters.

Together, the two sets of legislation would establish tough, clear provisions for wildlife and wetlands which, by definition, often work together.

**WILDLIFE BILLS:** The nongame program was established on a temporary basis in a fiscal 2001 Interior and related agencies appropriations bill. While the law does not specify a spending ceiling, Congress usually appropriates about \$75 million per year on it.

The House-passed version of an energy bill (HR 3221) would make the program permanent, although it does not indicate where the money would come from, other than appropriations. S 2204 does not either.

As with the original program, HR 3221 would allocate 90 percent of wildlife conservation grant money to states and 10 percent to Indian tribes. The state revenues would be allocated one-third based on the physical size of states and one-third based on population. States would have to complete comprehensive wildlife conservation plans in order to qualify for grants (almost all have.)

Sportsmen and conservationists who support the program recommended in a report in May that Congress provide at least \$1 billion in new money for wildlife conservation programs, particularly for nongame species. The recommendation came from a coalition of 5,000 organizations.

Although both the House and Senate

approved energy bills in early summer, they have been unable to get together in conference. Senate leaders have not been able to line up enough votes to overcome Republican objections to taxes on the energy industry and move the bill to conference, but those leaders last week began to push the bill more aggressively.

**WETLANDS BILLS:** House Transportation Committee Chairman James Oberstar (D-Minn.) and 172 cosponsors introduced legislation (HR 2421) in May that is aimed at redressing a June 19, 2006, Supreme Court decision, *Rapanos v. U.S. Nos. 04-1034 and 04-1384*. Sen. Russ Feingold (D-Minn.) introduced a counterpart Senate bill (S 1870) with 20 cosponsors in July.

The Supreme Court decision effectively directed the Sixth U.S. Circuit Court of Appeals to determine when the Corps and EPA should require permits for activities on navigable waters. While the decision was foggy at best about what constitutes navigable waters, it left no doubt that only water bodies related to navigable waters should be regulated.

Oppositely, HR 2421 would make clear the Corps of Engineers must require a permit for dredging activities in all waters of the United States.

Despite the large number of cosponsors, HR 2421 and S 1870 have a tough road ahead because conservative groups regard the *Rapanos* dispute as a signature private property rights issue. As the American Lands Rights Association told its members October 18, "The bill is an attempt to control 'non-point sources' of water pollution, essentially any type of significant uses - farming, logging, mining, development of any kind, and even atmospheric deposition."

But the Natural Resources Defense Council said of the *Rapanos* dispute at a House Transportation Committee hearing October 18, "The problem is as fundamental as they come. We cannot effectively protect lakes, rivers, and coastal waters if we do not protect the waters that flow into them."

## Agencies, rec interests fault huge Rockies lands bill

The Bush administration opposed in no uncertain terms last week the biggest wilderness/recreation bill (HR 1975) to come before Congress since the Alaska National Interest Lands Conservation Act of 1980.

Most of all the administration said the sponsors of the Northern Rockies bill (HR 1975) have failed to coordinate the bill with local communities. HR 1975 would designate 23 million acres of wilderness and protect millions of acres of conservation land.

"HR 1975 does not show the same spirit of consensus and compromise that has resulted in previously successful wilderness bills," Henri Bisson, deputy director of the Bureau of Land Management (BLM), told the House subcommittee on National Parks, Forests and Public Lands. "It is not the result of a local collaborative effort undertaken by the Congressional delegations of the affected states."

The Americans for Recreational Access (ARRA) association also took sharp exception to the bill, saying the five-state bill was too large. "I'm not sure this is the way to legislate new policy governing the use of public lands," said Larry E. Smith, executive director of ARRA.

Said Rep. Dennis Rehberg (R-Mont.), "The threat of locking up millions of acres of land in Montana and other areas so folks can hold in their minds a mythical 'the way it was' image and have a getaway spot for their vacations or second homes is an affront to Montanans."

But bill supporters say the country has an obligation to protect its wild places. Rep. Dale Kildee (D-Mich.) said, "God developed the Salt Lake Cities. He developed the Flint Michigans. But certain areas we should leave as they came from the hand of God. That is an obligation Congress has to look at." Rep. Carolyn Maloney (D-N.Y.) and 115 cosponsors introduced HR 1975.

Subcommittee Chairman Raúl Grijalva (D-Ariz.) did not commit to moving the bill, but he said, "HR 1975 is very ambitious legislation that deserves a careful look by this subcommittee." He cautioned, "We can certainly not overlook that HR 1975 would be the second largest wilderness bill ever, surpassed only by the 1980 Alaska National Interest Lands Conservation Act. Any legislation of this magnitude should not be taken lightly."

Grijalva said the bill - the Northern Rockies Ecosystem Protection Act - would designate 24 million acres of wilderness (other witnesses put it at 23 million acres), designate 1,800 miles of wild and scenic river, designate more than 3 million acres of biological connecting corridors and designate more than 1 million acres of restoration and recovery areas. The lands are in Idaho, Montana, Oregon, Washington and Wyoming.

Bisson said the sponsors did not identify clearly the boundaries of areas to be protected, so it is difficult for federal agencies to identify the effects of the legislation. "While the impact of the bill is potentially vast, it is difficult to find specific information on the areas proposed for designation," he said. "We have only been able to find a single overview map of the areas with no exact details on the boundaries of the parcels proposed for designation."

Still, Bisson said BLM believes that some "proposed designations would result in resource conflicts or pose serious management challenges. For example, it appears that oil and gas production currently exists on some of the BLM-managed lands proposed for wilderness designation under HR 1975, and well-used vehicle corridors crisscross others."

There is a school of thought advanced by environmentalists that Rocky Mountain States could prosper more from conservation systems and attendant recreation opportunities than from commodity development. The Wilderness Society issued an undated report recently that makes that case called *Natural Dividends, Wildland Protection and the*

*Changing Economy of the Rocky Mountain West.*

"Contrary to a common misperception, the economy of the American West no longer depends solely on traditional resource-extractive industries," said William H. Meadows, society president, in a preface to the report. "Mining, logging, oil and gas development, farming and ranching are waning in importance. Instead, economic health and sustainable growth often are tied to the protection of the region's abundant natural resources - a trend that will likely intensify in the coming years." The report did not specifically address HR 1975.

### **Farm bill heads for Senate floor with outdoor programs**

The Senate Agriculture Committee October 25 approved a multi-year farm bill that includes serious money for conservation programs, including a new program to encourage private landowners to open their property to hunters and fishermen. The Senate is expected to begin consideration of the bill momentarily.

But conservation groups such as the Theodore Roosevelt Conservation Partnership (TRCP) worry that the bill will (1) not provide enough money for outdoor programs and, even if more conservation money were provided, (2) would enable the Department of Agriculture to shift it to regular farming programs.

Said TRCP shortly after the committee action, "The sportsmen's and conservation community is unified in its recommendations for increased conservation funding and would oppose strongly any amendments that would move funding from conservation to other farm programs."

In his defense committee chairman Tom Harkin (D-Iowa) said the bill (un-numbered) contains \$4 billion in new budget authority for conservation programs. However, sportsmen are asking for \$6 billion in new money, or \$2 billion more than the Senate Agriculture

Committee approved last week.

The committee bill includes basic conservation programs including a conservation reserve program, a wildlife habitat improvement program, a wetlands reserve program, a grasslands reserve program, and an environmental quality incentives program.

The House approved its version of a farm bill (HR 2419) July 27. It also includes most of the conservation programs advocated by hunters and fishermen, including the program to encourage private landowners to open their land.

The Senate Agriculture Committee bill is now on the Senate floor, the death knell of much legislation because supporters need 60 votes to gain approval of any controversial provisions. And the Bush administration, if its stance on the House bill is any indication, will object to the amount and sources of money in the bill.

Senate leadership is giving the farm bill top priority because the existing law technically expired October 1. However, the Department of Agriculture is continuing most programs under a prior farm bill enacted in 2002.

Harkins said his bill would put up enough money to allow a conservation reserve program to add 13 million acres per year for five years. Some 15 million acres are presently enrolled. The program sets aside marginal farmland for conservation purposes. Harkins also said the bill would allow a Wetland Reserve Program and a Grassland Reserve Program to continue to enroll lands to be protected.

The sportsmen's access program, called "Open Fields", would authorize state and Indian tribes to apply for grants to encourage private owners of farms, ranches and forests to make that land available for hunters, fishermen and wildlife watchers. The provision (Section 1299 of the Senate bill) would make \$20 million per year available for grants.

The Bush administration has recom-

mended significant funding in a new farm bill for conservation programs, including the merger of a number of programs under the environmental quality incentives program for spending purposes.

However, the Office of Management and Budget (OMB) July 25 threatened a veto of the House bill, primarily because House Democrats would finance it by increasing taxes on companies that use foreign tax havens, and not by direct spending offsets. OMB also criticized the bill for "failing to consolidate the (conservation) programs."

## Las Vegas land sales no longer providing big money

Is the goose that produced billions of dollars for conservation in Nevada over the last decade running out of golden eggs? The goose, also known as the Southern Nevada Public Lands Management Act (SNPLMA), authorizes the Bureau of Land Management (BLM) to sell excess land in southern Nevada with the proceeds used for conservation in the state.

In November 2005 BLM brought in almost \$800 million from a single land sale. Since then BLM received only \$11 million from an Aug. 2, 2006, sale and \$12 million from a March 7, 2007, sale. "That shows a dramatic drop," said a BLM spokeswoman.

The law provides for the State of Nevada and local governments to receive 15 percent of the proceeds for parks, water resource projects and other initiatives. The other 85 percent is allocated to the federal government for acquisition of conservation land around the state.

The next big test for the program came November 1 when BLM puts up for sale 167.5 acres in 31 parcels. In addition BLM has asked for nominations for another round of sales to be submitted by December 20.

The BLM spokeswoman would not speculate on the reasons for the drop, whether it's a matter of the most valu-

able lands having already been sold or the national housing credit crisis/crunch. The spokeswoman did say, "There is less land for sale and fewer parcels nominated by local governments. City and county governments nominate parcels for sale. BLM does not select them."

The bulk of nominations come from Clark County, home of Las Vegas. Dan Kulin, a spokesman for Clark County, said, "We nominate parcels at the request of the private sector, so a decrease in nominations would be attributed to folks not asking us to nominate tracts." Those private interests are usually major land developers.

Kulin said the past sales have played an important role in the county's economic development. "Certainly, the sale of those lands had opened up new areas for growth," he said, "and that growth has had an impact on our economy. This is one of the fastest growing areas in the country." Kulin said that while the development has helped the county grow, it has also imposed some new demand for services.

According to BLM numbers 28,380 acres of bureau-managed lands are still available for sale in Las Vegas Valley, as identified in a 2004 EIS. BLM had sold just over 13,000 acres as of March of this year.

Under SNPLMA BLM has sold \$2.946 billion worth of federal land to help Las Vegas and nearby communities grow. When Congress passed SNPLMA in 1998 (Public Law 105-263) it anticipated annual grosses of \$70 million. However, in the November 2005 sale alone BLM took in \$800 million.

The Bush administration has had its eye on those revenues for years. In fiscal year 2006 the administration attempted to divert 70 percent of the federal 85 percent in SNPLMA revenues to the U.S. Treasury. Sen. John Ensign (R-Nev.) headed off that raid by agreeing to drop his earlier opposition to an administration proposal to transfer 200 acres of prized land in Washington, D.C., to the city government at no cost.

The agreement between Ensign and the administration was carried forward to the fiscal year 2008 Bush administration budget. It did not include a raid on SNPLMA money.

## **FS roadless area suit alive; recreationists involved**

The Forest Service roadless area controversy took another unusual turn October 19 when a federal judge heard testimony on a request that he rule a Clinton-era rule invalid.

The State of Wyoming not only wants U.S. District Court Judge Clarence Brimmer to throw out the Clinton rule, it also wants him to reinstate a competing Bush administration rule. To do so, Brimmer would have to overturn a Sept. 19, 2006, decision by a different federal judge who in turn had held the Bush administration rule invalid. That order was issued by U.S. District Court Judge Elizabeth D. Laporte in Northern California.

In the oral arguments before Brimmer the Justice Department reportedly found itself in the unusual position of arguing in favor of the Clinton rule that the Bush administration has attacked throughout its tenure. The administration did that because it is trying to avoid a situation whereby two federal judges rule invalid two separate roadless area rules.

Powered recreation groups have joined the litigation to protect recreational access to the 58.5 million acres of roadless areas involved in the rule. The groups include the California Association of 4 Wheel Drive Clubs, United Four Wheel Drive Association, the American Council of Snowmobile Associations, and the BlueRibbon Coalition.

"Thirty years of experience and several bouts of litigation have hopefully cemented the reality that top down, one-size-fits-all management programs will not work on diverse forest landscapes spanning the country," said Paul Turcke, an attorney representing the groups. "It is important to understand that each roadless area is unique

and local conditions should be taken into consideration when managing these lands."

Judge Brimmer said at the hearing that it would probably take him considerable time to prepare a decision.

A 2001 Clinton rule would have barred most road construction and timber sales on 58.5 million acres of national forest. In 2003 Brimmer held that rule was invalid but the Tenth Circuit Court of Appeals ruled the Brimmer decision moot when the Bush administration replaced the Clinton rule with its own roadless area rule.

The 2005 Bush rule would have allowed states to submit petitions to the Forest Service for individual state rules. Judge Laporte said the Bush rule failed to analyze environmental impacts. The Forest Service had argued that it need not write an EIS with the rule because the agency would analyze environmental impacts when states submitted their petitions. Laporte reinstated the Clinton rule in her 2006 decision.

## **Notes**

**Senate confirms Lavery, finally.**  
It only took seven months but the Senate October 29 approved the nomination of R. Lyle Lavery as assistant secretary of Interior for Fish and Wildlife and Parks. The White House had announced his nomination March 23. The energetic Lavery will set administration policy for the National Park Service and the Fish and Wildlife Service, albeit just for the next 14 months. Said Secretary of Interior Dirk Kempthorne, "Lyle Lavery has vast experience in park and natural resource management that will enable him to do an outstanding job as assistant secretary overseeing the National Park Service and the U.S. Fish and Wildlife Service." Lavery has served as director of Colorado State Parks since 2001. He has also held positions as recreation boss for the Forest Service and regional forester for the Rocky Mountain Region of the Forest Service. Sen. Ron Wyden (D-Ore.) delayed Lavery's confirmation with a hold because of concerns about unethical

behavior in the Interior Department and about Laverty's dealings with contractors as Colorado parks boss. Wyden was the only senator who spoke out against Laverty's confirmation during committee hearings. The Senate was able to circumvent Wyden's hold because he was out of town attending to the birth of twins when the nomination was confirmed

#### **Preserve America, etc. bills in.**

The odd couple of Sens. Pete Domenici (R-N.M.) and Hillary Clinton (D-N.Y.) teamed up to introduce legislation (S 2262) to formally authorize a Preserve America Program and a Save America's Treasures Program. Those programs were created by Executive Orders and have not obtained an official imprimatur from Congress. Said Domenici, "Both the Preserve America Program and the Save America's Treasures Program have demonstrated significant success nationwide. However, both administration programs have relied solely on the will of the appropriations process and currently lack the long-term stability provided by formal authorization." Appropriations and private grants have provided more than \$300 million for Save America's Treasures projects alone. Rep. Brad Miller (R-N.C.) led a bipartisan group of House members in introducing a counterpart bill (HR 3981) October 29. The bills don't specify an authorization ceiling for the programs, which provide seed money to preserve the nation's cultural and natural heritage.

#### **House approves NPS unit in N.J.**

The House passed legislation (HR 189) October 20 that would designate a Great Falls Paterson National Park in New Jersey, even though the Bush administration opposes it. But supporters such as bill sponsor Rep. Bill Pascrell (D-N.J.) say the national park designation is needed to commemorate the beauty and historic role of the 80-foot Great Falls 15 miles west of New York City. The Bush administration told the Senate Energy Committee last month that a Senate counterpart bill (S 148) from Sen. Frank Lautenberg (D-N.J.) would cost too much (\$22 million, not counting recurring costs) and would be redundant to existing parks. But Pascrell said of the site, "It produced the Colt Revolver; the first submarine, John Hol-

land, 1878; the aircraft engine for the first transatlantic flight; more locomotives than any city in the United States; more silk than any city in the world. This is not significant, Mr. Speaker?"

**California fires make bad year worse.** The explosion of fires in southern California in the last fortnight has transformed the calendar year 2007 fire season from a serious one to a devastating one. As of late this week the National Interagency Fire Center (NIFC) reported a five large fires still burning in southern California (and none elsewhere in the country.) The California fires ere concentrated in the southern part of the state. NIFC reported late this week that almost 9.2 million acres have burned this year nationally, compared to just over 9.4 million acres at the same time in 2006. The ten-year average for this time of year is about 7.2 million acres. For more fire information go to: [http://www.nifc.gov/fire\\_info/nfn.htm](http://www.nifc.gov/fire_info/nfn.htm). It is still too early to determine how the costs of fighting the California fires will affect federal land management agencies' budgets. The fiscal 2007 budget year of course ended September 30 before the outbreak began, so the southern California costs will be counted against fiscal 2008 appropriations.

#### **Mining bill protects NPS units.**

The House was considering legislation (HR 2262) at press time that would protect national parks and national monuments from the impact of hard rock mining. The provision, attached to the mining bill October 23 by the House Natural Resources Committee, would forbid mining if it would affect parks and monuments. Provision sponsor Rush Holt (D-N.J.) said he was worried about 8,300 mining claims within 10 miles of national parks and 5,000 mining claims within 10 miles of national monuments. Republicans objected because of the legal and financial implications of denying valid existing rights to claimants. The committee approved the park protection amendment by a narrow 21-to-18 margin. No counterpart mining bill has emerged in the Senate yet. Hard rock mining includes such minerals as gold, silver, copper and uranium.

**Senate panel supports electric ROWs.** The Senate Agriculture Committee October 25 refused to add to a 2007 farm bill an amendment to block the delineation of two huge electric transmission corridors - one in the southwest and one in the East. Sen. Robert P. Casey (D-Pa.) offered the amendment but it was rejected by a voice vote. Acting under direction of the Energy Policy Act of 2005, the Department of Energy identified the corridors October 5. But Casey and other easterners such as Rep. Maurice Hinchey (D-N.Y.) said the corridors would allow applicants for rights-of-way to obtain eminent domain authority from the feds even if states denied applications. Hinchey said the eastern corridor would endanger the Upper Delaware Scenic and Recreational River, Antietam National Battlefield and Gettysburg National Military Park, among other sites. Hinchey said he would attempt to shut off money to implement the provision in appropriations bills and to kill the provision outright with authorizing legislation. The eastern corridor goes through parts of Delaware, the District of Columbia, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia. The southwestern corridor crosses seven counties in southern California and three counties in western Arizona.

**Freudenthal raps reclamation rule.** Wyoming Gov. Dave Freudenthal (D-Wyo.) last month tore into proposed Bureau of Reclamation regulations that would establish a procedure for eliminating private recreational uses on bureau properties. The provision at issue, part of a comprehensive revision of the bureau's recreation policies, says that when private recreation uses expire, "Reclamation generally will not renew them." Freudenthal hit the roof, asserting, "I am flatly opposed to proposed section 429.32(b), which, despite the nod given to 'rare exceptions,' is clearly intended to terminate lease renewals for boat clubs, docks and trailer sites on BOR lands." The bureau said it proposed the new rule on July 18 to update its guidance on use of Reclamation land, facilities and waters because of confusion sown by new and expanded use of its properties.

## Conference calendar

### NOVEMBER

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

11-14. **Council of State Governments** state trends forum in Oklahoma City, Okla. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. [www.csg.org](http://www.csg.org).

13-17. **National League of Cities** annual Congress of Cities in New Orleans. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. <http://www.nlc.org>.

27-29. **Recreation Vehicle Industry Association** annual trade show in Louisville, Ky. Contact: Recreation Vehicle Industry Association, 1896 Preston White Drive, Reston, VA 20195-0999. <http://www.rvia.org>.

### DECEMBER

5-7. **America Outdoors** marketing and management conference in Reno, Nev. Contact: <http://www.americaoutdoors.org/confluence.htm>

### JANUARY

22-24. **National Ski Areas Association** western conference in Snowbird, Utah. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

23-25. **U.S. Conference of Mayors** winter meeting in Washington, D.C. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, DC 20006. (202) 293-7330. <http://www.usmayors.org>.

23-26. **Outdoor Retailer Winter Market** in Salt Lake City. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.