

Federal Parks & Recreation

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Senate nearing action on interim spending proposal

The Senate at press time was closing in on a short-term spending bill that would keep all government agencies in money through December 9.

There are lots of obstacles ahead in the Senate and the House, but passage of the continuing resolution would open the way for the writing of full-year fiscal 2017 appropriations bills in a lame-duck session this fall.

The continuing resolution, developed by Republicans at the behest of Senate Majority Leader Mitch McConnell (R-Ky.), would extend fiscal 2016 spending levels into December. McConnell has not made public yet details of the resolution.

Numerous obstacles lie ahead such as a disagreement between Democrats and Republicans about adding money to combat the Zika virus and Planned Parenthood. But for park and recreation purposes the most important dispute is over a Democratic demand that Congress commit to appropriating equal amounts of money for domestic and military spending in money bills.

The Republican majority would prefer to appropriate an \$18 billion more for Defense spending than domestic spending, adding the \$18 billion to a National Defense Authorization Act (NDAA). The Senate rejected that proposal in June, but it may reappear.

A grand spending agreement between the White House and Congress (PL 114-74 of Nov. 2, 2015) gave appropriators extra money to work with for all domestic and military programs in fiscal years 2016 and 2017. For fiscal 2017 the total is \$1.070 billion.

In another obstacle some House

Republicans from the House Freedom Caucus want to cut \$30 billion off the top of the \$1.070 billion.

Finally, in still another dispute, members of the House Freedom Caucus would extend funding now at existing levels until early next year, or through March 2017. That would give Republican Presidential hopeful Donald Trump an opportunity to write his own ticket, assuming he is elected.

Like other domestic appropriations bills, an Interior and Related Agencies spending bill (HR 5538, S 3068) isn't going anywhere on its own. The House approved its version July 14 and the Senate Appropriations Committee approved its version June 16.

For fiscal 2017 the House Appropriations Committee used the overall budget agreement of November 2015 to establish a spending cap for an Interior bill that is \$64 million less than a fiscal 2016 ceiling of \$30.416 billion. The committee set a cap of \$32.095 billion for fiscal 2017. Still, that is marginally above the spending cap of \$32.034 billion set by the Senate Appropriations Committee for its bill.

The House then approved its fiscal 2017 Interior bill (HR 5538) July 14 and the Senate Appropriations Committee approved its bill (S 3068) June 16. Both the House and the Senate committee packed their bills with amendments/riders that attack dozens of Obama administration conservation initiatives.

If by some miracle Congress actually passed an Interior appropriations bill, here are some of the recommended House and Senate committee appropriations:

For the LAND AND WATER CONSERVATION FUND the House bill recommends an appropriation of \$145.8 million, or \$88.4 million short of a fiscal 2016 appropriation of \$234.2 million. The House also would reduce the state side of LWCF by \$30 million, cutting it from \$110 million to \$80 million.

The Senate committee bill

recommends \$40 million more for federal land acquisition than the House, approving \$184.4 million. The senators would allocate \$110 million for state grant, the same as fiscal 2016.

CENTENNIAL CHALLENGE GRANTS: The House approved \$30 million, or \$5 million less than the \$35 million the administration requested. The Senate committee approved \$20 million.

PARK SERVICE OPERATIONS: The House approved \$2.435 billion, or \$39 million more than a fiscal 2016 appropriation of \$2.396 billion. The Senate committee would appropriate \$2.406 billion.

STATE WILDLIFE CONSERVATION GRANTS: The House approved \$62.6 million, or \$2 million more than the fiscal 2016 appropriation of \$60.6 million. The Senate committee would appropriate \$62.6 million, the same as the House.

FOREST SERVICE RECREATION: The House approved \$263.9 million, just over the fiscal 2016 appropriation of \$261.7 million. The Senate committee would appropriate \$264.6 million.

BLM RECREATION MANAGEMENT: The House would appropriate \$69.5 million, compared to a fiscal 2016 appropriation of the same, \$69.5 million. The Senate committee would appropriate \$68.7 million.

RIDERS: Environmentalists object to numerous amendments/riders in the House and Senate committee bills. They have singled out for condemnation in particular a House amendment that would forbid the designation of any national monument in specific counties in eight states - Arizona, California, Colorado, Nevada, New Mexico, Oregon, Utah and Maine. Critics of the amendment say the ban would apply to 160 million acres.

Other House amendments would bar the designation of any new ocean national monuments; block limits on motorboat use in Havasu Wildlife Refuge; block an Obama administration ocean policy; prevent designation of a national heritage area in southeastern Colorado; and bar the designation of any

new ocean national monuments.

Both the House and Senate committee would extend a Congressional ban on the spending of construction money on a Dwight D. Eisenhower Memorial on the Washington, D.C., Mall. Republican leaders on the House Natural Resources Committee and some Eisenhower family members object to the design of the proposed memorial.

In addition, the House approved no money for a memorial commission, although, it said, the measure does extend "the authority to build on the present site and requires all construction funding to be appropriated before construction begins." The Senate committee did approve \$1 million for the commission.

Finally, both the House and the Senate committee would forbid EPA from implementing a May 27, 2015, rule that would expand the definition of a wetland subject to a Section 404 permit under the Clean Water Act. EPA and the Corps of Engineers said that the rule would go beyond the existing regulation that only requires a permit for navigable waters. The rule would also require permits for seasonal streams, wetlands near navigable waters and other waters.

LWCF authorization: On a separate track a Senate-House conference committee is expected to consider this month Senate-passed legislation (S 2012) that would make the underlying LWCF law permanent. The Senate-passed version of S 2012 would also set aside \$150 million each year for Park Service maintenance from offshore royalties, but in a separate fund from LWCF.

Kornze sympathizes but says Utah Lands bill needs work

The Obama administration September 14 disagreed with most of the provisions in a massive Utah Public Lands Initiative (HR 5780), but left the door open for further negotiations, in part.

At a hearing of the House subcommittee on Federal Lands Bureau of Land Management (BLM) Director Neil

Kornze praised Reps. Rob Bishop (R-Utah) and Jason Chaffetz (R-Utah) for tackling land uses on 18 million acres in seven Utah counties.

Said Kornze, "The Department of the Interior greatly appreciates the sponsors' ambitious effort to address difficult resource and land management issues in eastern Utah and supports many of the goals of HR 5780."

But he laid out a laundry list of objections. "In particular," he said, "the Department opposes the nonstandard management language for many of the proposed conservation and special management designations, which are repeated throughout the bill and would result in significantly less protection than in other similarly-designated areas."

HR 5780 would designate 41 wilderness areas, 11 national conservation areas, 13 special management areas, an 867-acre Jurassic National Monument, and several segments of the Colorado and Dolores Rivers as wild and scenic.

HR 5780 would also designate 1,000 miles of RS 2477 rights-of-way (ROWS), thus transferring ownership to the state or counties that claim them in Uintah, Duchesne, Carbon, Emery, Grand, and San Juan Counties. The counties have filed claims in federal court to the ROWs.

The Utah delegation said the bill would protect 1.4 million acres of the **Bears Ears** region of southern Utah, which five Indian tribes and environmentalists want designated as a 1.9 million-acre national monument. The protection would come in the form of two national conservation areas totaling 858,000 acres and in a wilderness area.

On Bears Ears Kornze would not concede that the Obama administration intends to designate the entire 1.9 million-acre region as a national monument under the Antiquities Act of 1906.

But he said the administration was open for negotiations. "The Department would like the opportunity to work with

the sponsors on the care and protection of the world-class cultural and natural resources of the area and on additional amendments regarding definitions, time frames, management plan development, mapping requirements, and boundary adjustments for manageability," Kornze said.

A Bears Ears monument was endorsed at the hearing by Regina Lopez-Whiteskunk, cochair of the Bears Ears Inter-Tribal Coalition (BEITC). She said, "As drafted, (the bill) also fails to protect over half a million acres of the Bears Ears region as proposed by the BEITC. Not only were considerable efforts made to account for every acre in a proposed national monument, but considerable reductions of lands, that are also worthy of protection, were painstakingly not included in maps of the BEITC's proposed national monument. Our call to protect 1.9 million acres is already a conservative request. Anything less is tantamount to destruction of sacred sites that the identities of native people are affixed to."

Bishop defended his bill and the development of it. "No one has been cut out of the process," he said. "Everyone has had their say, including online. We've had more than 65 changes requested by 120 different groups."

Then he described his goals: "What this bill tries to do is four major things to bring finality: first, guarantee recreational opportunities for Utahns that will be there permanently; second, provide areas whose primary purpose will be for economic development so the business community knows where it can and cannot invest; third, provide permanent conservation by Congress and not by fiat which can be undone by fiat; and fourth, give areas to the State of Utah so they can develop destination spots that would improve the value of the land."

Bishop was supported by Clif Koontz, program director of Ride With Respect, advocates of off-trail use with a focus on motorcycles. "However I'm not taking time off the trail just to advance my hobby of motorcycling or

my profession of directing a nonprofit organization," he said. "I'm here because imposing a monument on half of a county would only entrench controversy. While the PLI couldn't be a panacea, it would go a long way toward resolving controversy by providing a more clear direction. In my 14 years of service on public lands, the PLI is the closest proposal I've seen to sustaining people and places," said Koontz,

But Rep. Niki Tsongas (R-Mass.), ranking Democrat on the subcommittee, said the bill is a nonstarter. "All told, despite the many years of effort, this is not a legislative proposal that has a realistic chance of being passed by the Senate or signed into law by President Obama," she said.

Separately, Bishop and Chaffetz introduced a second bill, HR 5781, which would forbid designation of any national monument by the Obama administration in the seven counties covered by HR 5780.

Sens. Mike Lee (R-Utah) and Orrin Hatch (R-Utah) introduced a no-Utah monument bill (S 3317) of their own September 13.

The Southern Utah Wilderness Alliance has offered a chapter-and-verse criticism of the draft bill, concluding, Utah's congressional delegation will no doubt repeat ad nauseam their talking point about 4.6 million acres of federal land 'designated for conservation' in the PLI. Don't believe it. The big acreages proffered by Rep. Bishop are disingenuous, as a hard look at the bill reveals that the PLI is a cobbled together mess that maximizes resource extraction and includes land 'protections' riddled with loopholes."

SUWA objected to, among other things, "bastardized National Conservation Areas that enshrine the Bush-era management plans that designated thousands of miles of off-road vehicle routes," a half-million acres of the Bears Ears area not protected, "Codifies the abysmal Bush-era motorized travel plans in protected areas," and grants many miles of RS 2477 rights-of-way.

Utah Gov. Gary Herbert (R) backed the *draft* bill. "I am supportive of this inclusive, bottom-up approach that moves us in the right direction," he said. "While the initiative is not perfect, as no true compromise is, it finds a way to give the state greater control over the use of Utah lands."

The possibility that President Obama will designate broad areas of eastern and southern Utah as national monuments has given great impetus to the Public Lands Initiative. Even with the Bishop bill on the table the President is expected to designate one or more significant monuments in Utah this year.

More detail on the legislation is available at: UtahPLI.com.

As mentioned, driving Bishop and Chaffetz in part is the possibility that the Obama administration would designate a Bears Ears National Monument in southern Utah.

Utah legislative officials oppose a Bears Ears monument. In Exhibit One at the request of Gov. Herbert the Utah State Senate May 18 approved by a 23-to-5 margin a resolution opposing the designation of a 1 Bears Ears National Monument. The Utah State House of Representatives had approved the resolution earlier in a 64-to-10 vote. The resolution is nonbinding on either the federal or state governments.

While some of the impetus for a Bears Ears national monument is coming from environmental groups, five Indian tribes located near the area are leading the campaign. The Ute Mountain Ute, Zuni, Hopi, Navajo, and Ute Tribe of the Uintah and Ouray An have put together an unprecedented coalition of Tribal governments in support of the monument.

Some 12.7 million acres of federal land in Utah are presently reserved for conservation purposes, including national parks, wilderness, wilderness study areas, wild and scenic rivers, and national monuments. In addition Congressional Democrats are pushing for the designation of 9.1 million acres of new wilderness, mostly from BLM-managed lands.

Even less amenable has been a related argument over the State of Utah's claim to 31 millions of public lands in the state.

Utah officials make no secret that development of those public lands is a major goal of the Transfer of Public Lands Act, HB 148, signed into law on March 23, 2012, by Gov. Herbert. It demands the transfer of most federal land in the state, about 31 million acres, excepting only national parks (save for portions of Glen Canyon National Recreation Area), national monuments and wilderness areas.

Yosemite given 400-acre tract; Bishop questions law

Yosemite National Park last week added a 400-acre Ackerson Meadow to its universe, the largest addition to the park since 1949. The Trust for Public Land, using bequests, donated the land.

The donation adds a meadow habitat surrounded by forest and brings the park's holdings to 750,000 acres. The new tract on the western side of Yosemite will help support numerous flora and fauna species, the park said.

House Natural Resources Committee Chairman Rob Bishop (R-Utah) immediately questioned the expansion, charging that federal law requires Congressional approval of any new tract larger than 200 acres and worth more than \$750,000, even if the land is donated.

Bishop told the *Associated Press*, "The Park Service acted outside of its authority, and we will require them to account for their actions."

But the Park Service said it does have authority to accept donations or more than 200 acres and worth more than \$750,000. Those triggers kick in when land is acquired for parks under the Land and Water Conservation Fund (LWCF).

The Trust for Public Land, which put together the acquisition of the \$2.3 million tract, linked it to the 2016 National Park System Centennial. "Donating the largest addition since

1949 to one of the world's most famous parks is a great way to celebrate the 100th birthday of our National Park Service - and honor John Muir's original vision for the park. We are delighted, and proud to make this gift to Yosemite, and the people of America" said Will Rogers, president of The Trust for Public Land.

Said Yosemite National Park Superintendent Don Neubacher, "The generous donation of Ackerson Meadow will preserve critical meadow habitat that is home to a number of state and federally listed protected species."

The Trust for Public Land said the \$2.3 million came from a bequest of \$1.530 million and a donation of \$520,000 by the Yosemite Conservancy. The trust said the National Park Trust and American Rivers helped out.

Rep. Bishop, who told the *Associated Press* he is not trying to block the transfer for now, has a long history of criticizing the expansion of the federal estate in the West, particularly via the LWCF. Local cattle ranchers and loggers and the Tuolumne County Board of Supervisors also opposed the addition.

Bishop has also criticized the Obama administration for protecting existing lands within the federal estate via the Antiquities Act of 1906.

Recently, when President Obama on August 24 designated an 87,500-acre Katahdin Woods and Waters National Monument in Maine, he said, "If the President cared about local voices and improving our National Park System, he would have done this through the public process and not behind closed doors. Instead, he's hijacked a moment of celebration (of the Park Service's Centennial) to advance powerful elite special interests over Maine's economy and citizens."

The North Woods monument was designated from lands donated by private interest, the Quimby family, and will be managed by the Park Service.

Cantwell praises LWCF as energy bill conference begins

House and Senate conferees met for the first time September 8 on a huge omnibus energy bill that would make permanent the Land and Water Conservation Fund (LWCF).

At the session conferees did not act on any substantive issues in the bill; they just offered opening statements.

But ranking Senate Energy Committee Democrat Maria Cantwell (D-Wash.) praised the provision that would make LWCF permanent.

Of her work on the bill in the Senate she said, "I also was very pleased to work on a bipartisan basis in a very diligent manner to provide language permanently authorizing (LWCF). Our colleagues on both sides of the aisle provided language to update that provision. This is one of the preeminent programs in our country for preserving open space and for growing the outdoor recreation economy that is so important to the Northwest. It is thousands of jobs and, millions - actually I think billions of dollars - in consumer spending."

As for the future of the broader energy conference Cantwell said, "I am optimistic that this conference committee can resolve the differences between the House and Senate bills, which will result in a bill the president can sign."

At press time the conferees had not scheduled a next meeting. Taking the lead in the conference are Senate Energy Committee Chairman Lisa Murkowski (R-Alaska), House Natural Resources Chairman Rob Bishop (R-Utah) and House Energy & Commerce Chairman Fred Upton (R-Mich.)

When the conferees do begin work in earnest they will have their work cut out for them. That's because the House-passed version of the bill (S 2012) includes sweeping ancillary provisions that would do such things as expedite

approval of hard rock mining projects on the public lands, expedite hazardous fuels reduction projects and delegate responsibility to approve energy rights-of-way across national parks to the Interior Department.

Under current law only Congress has the authority to approve energy rights-of-way across national park land.

The Senate-passed bill contains none of those provisions.

However, the Senate passed version would not only make LWCF permanent, it would also set aside \$150 million each year for Park Service maintenance from offshore royalties, but in a separate fund from LWCF. In addition the Senate bill contains the seeds of a Park Service Centennial program. (See *related article page 9.*)

The House-passed version of S 2012 contains none of the Senate LWCF provisions. Indeed the House rejected an amendment on the House floor May 25 that would have directed House conferees to accept the Senate LWCF provision. The House said no in a close 205-to-212 vote.

So the question remains, how hard will the Senate push in a House-Senate conference committee? Cantwell is all in.

There will be pushback. House Natural Resources Committee Chairman Rob Bishop (R-Utah), a leader of House conferees, spoke out against support for the LWCF provision in May.

He said the House should not insert into the energy bill provisions the whole House has not approved yet. "This now asks us to do something that has never been endorsed by the House. In fact, it is quite the opposite," he said.

Bishop has introduced a "discussion draft" bill that would extend LWCF for seven years and substantially realign program priorities.

Bishop's draft would slash funding

for the federal side of LWCF but give greater support to the state side. States traditionally receive a small fraction of the total LWCF pie; the draft Bishop bill would guarantee them 45 percent. In addition Bishop would allocate five percent of LWCF to an urban recreation fund, sort of a follow-on to an Urban Parks and Recreation Recovery program. He would allocate just 3.5 percent to federal land acquisition.

LWCF is not in danger of expiring any day soon. Congress extended the fund for three years in a fiscal 2016 appropriations law (PL 113-114 of Dec. 18, 2015) through fiscal 2018.

But supporters want to lock in LWCF now. Although there are several other legislative initiatives to do that floating around in Congress, the energy bill provides a golden opportunity.

Bishop has support in his resistance to the LWCF provision. The American Land Rights Association is asking its members to contact House and Senate members to oppose the provision in the Senate version of S 2012.

On the appropriations front the House on July 14 and the Senate Appropriations Committee June 16 approved the following LWCF allocations for fiscal 2017, compared to fiscal 2016:

The House bill (HR 5538) recommends an appropriation of \$145.8 million, or \$88.4 million short of a fiscal 2016 appropriation of \$234.2 million. The committee also would reduce the state side of LWCF by \$30 million, cutting it from \$110 million to \$80 million.

The Senate committee bill (S 3068) recommends \$40 million more for federal land acquisition than the House panel, approving \$184.4 million. The senators would also allocate \$10 million for state grants, a total of \$110 million.

However, House and Senate leaders from both parties acknowledge the appropriations bill will not move until after the elections.

Hunting and fishing: Both House

and Senate versions of S 2012 include a package of sportsmen's bills, including a provision to declare public lands open to hunting and fishing unless specifically closed.

However, the House sportsmen's package includes provisions the Obama administration objects to, such as the delisting of the gray wolf from the Endangered Species Act in Wyoming and various provisions authorizing the carrying of guns.

House westerners on floor decry federal footprint

Seven western House Republicans took to the House floor last week to object to the dimension of the federal estate in the West, and to object to any expansion thereof.

One of the seven, Rep. Paul A. Gosar (R-Ariz.), did prescribe a partial solution. He lauded a bill he has introduced (HR 5836) that would help dispose of lands the Bureau of Land Management (BLM) and the Forest Service are willing to dump.

The seven legislators made it clear that the size of the federal estate has grown too large. Rep. Tom McClintock (R-Calif.) began his discourse by listing his priorities as chairman of the House subcommittee on Federal lands - i.e. more access, better land management and more neighborliness.

Then he added, "But overarching all of these imperatives is the simple fact that excessive Federal land ownership in the West has become a stultifying drag on our economies and a direct impediment to our ability to take good care of our public lands."

Rep. Doug LaMalfa (R-Calif.) blamed the size of the federal estate for local government budget problems. "Another impact of Federal land acquisition is to deny the local governments the property tax revenue they would receive and generate and deny the rural communities the jobs and economic activity that responsible timber, ranching, farming, and mining

operations would generate," he said.

LaMalfa said that environmentalists recommend local governments move away from commodity uses to tourism. "But," he asked, "what happens when the same environmental agenda, extended in the form of critical habitat and other designations, even damages the fledgling tourist economy that they want to promote for these communities?"

The GOP sees three villains in this piece - environmentalists, federal land managers and the Land and Water Conservation Fund (LWCF).

Although the House westerners didn't single out LWCF for criticism in their House floor appearance, it is the main tool for expanding the federal estate they oppose.

There is of course another side of the story - the desire of environmentalists and, yes, many western communities to set aside special lands and waters for protection and for recreation.

For instance, many if not most of the nation's major ski resorts use national forest land for their operations.

Also not noted by the western seven was the contribution of energy development on the public lands to local economies. In fiscal year 2015 the Office of Natural Resources Revenue said it distributed \$1.84 billion in royalties to the states.

In addition Congress usually appropriates more than \$800 million per year for local governments under the Payments-in-Lieu of Taxes and Secure Rural Schools programs.

LWCF has bipartisan support, particularly in the Senate, where six Republicans have cosponsored a bill (S 2101) from Sen. Richard Burr (R-N.C.) to make LWCF permanent. In the House Rep. Michael Simpson (R-Idaho) has introduced a counterpart bill (HR 4151) with nine Republican cosponsors

Gosar correctly noted that BLM and the Forest Service have identified hundreds of thousands of acres for disposal in their land management plans. But Gosar said the agencies rarely sell off any of those lands.

His bill would have the agencies dispose of 10 percent of that acreage each year for eight years, or 80 percent of it. He would give local governments first dibs on acquisition under the Recreation and Public Purposes Act.

Gosar would allocate 50 percent of revenues to state and local governments, 10 percent to a special account to increase access to public lands for sportsmen and 40 percent to the U.S. Treasury.

House and Senate Republicans are on record as favoring the transfer of unspecified amounts of federal lands to state and local governments. In March 2015 both the House and Senate endorsed such disposal in fiscal 2016 Congressional budgets.

This year the Senate and House didn't produce budgets but the House Budget Committee March 16 did approve a budget that says, "The budget resolution supports giving States and localities more control over the resources within their borders."

In 2015 the Republicans acted in the passage of fiscal year 2016 Congressional budgets that the House approved March 25, 2015, (H Con Res 27) and the Senate approved March 27, 2015, (S Con Res 11). Those positions were advisory to line committees that would still have to move additional legislation to actually authorize any land transfers.

Finally, the Republican Party adopted a platform July 18 that says, "Congress shall immediately pass universal legislation providing for a timely and orderly mechanism requiring the federal government to convey certain federally controlled public lands to states. We call upon all national and state leaders and representatives to exert their utmost power and influence to urge the transfer of those lands,

identified in the review process, to all willing states for the benefit of the states and the nation as a whole."

The Democratic platform would retain federal land and develop recreation thereon. "Democrats will work to establish an American Parks Trust Fund to help expand local, state, and national recreational opportunities, rehabilitate existing parks, and enhance America's great outdoors – from our forests and coasts to neighborhood parks – so 'America's Best Idea' is held in trust for future generations, and all Americans can access and enjoy natural spaces," says their platform.

Centennial legislation still pending in energy conference

Although a House-Senate conference committee that may address the Park Service Centennial sat down for the first time September 8, the panel has yet to begin work on the nitty-gritty of the energy bill (S 2012) before it.

The conferees have not set aside time for a first real mark-up of the Senate-passed and House-passed versions of S 2012, but when they do the Centennial may be on their work list.

The office of ranking Senate Energy Committee Democrat Maria Cantwell (D-Wash.) told us this week "discussions of it may come up in House-Senate conference discussions."

The omnibus energy bill is one of the few pieces of legislation that Congress hopes to wrap up before leaving next month to campaign for the November 8 elections.

Meanwhile, supporters of the National Park System are hopeful the House will approve a stand-alone Centennial bill (HR 4680) shortly. That could set the stage for House-Senate conferees to include a Centennial provision in S 2012.

Although the House and Senate are already working on S 2012 now, the best chance of passage of the bill (with HR 4680 along for the ride) will probably

come in a three-week, post-election lame duck session beginning November 14.

The office of House Natural Resources Committee Chairman Rob Bishop (R-Utah) confirmed to us in the last issue of *FPR* that HR 4680 is on deck.

"We are working to advance it as a standalone bill but we are seeking every avenue," said a spokeswoman for Bishop. "There is also a placeholder for it in the Senate energy bill."

She also confirmed that Bishop and ranking committee Democrat Raúl M. Grijalva (D-Ariz.) were cooperating on the legislation. "As far as Grijalva's support, the bill passed committee as part of a (unanimous consent) package, which means the minority supported and waived their chance for further amendment. From the beginning, Bishop has collaborated with Rep. Grijalva to make this a bipartisan effort. That effort continues as we head to the floor."

(The omnibus energy bill, S 2012, is also the vehicle that would make the Land and Water Conservation Fund (LWCF) permanent. And it would set aside \$150 million each year for Park Service maintenance from offshore royalties, but in a separate fund from LWCF. However, the House-passed version of S 2012 does not include either of those provisions. (See related article page 6.)

As for the Centennial, neither the Senate energy bill nor the Housestand-alone bill comes close to an ambitious Obama administration proposal that would have Congress authorize more than \$500 million in new programs for the Centennial. (That's in addition to a huge increase in appropriations.)

The Senate omnibus energy bill, S 2012, would establish a National Park Centennial Challenge Fund with up to \$17.5 million per year in federal appropriations. That's not much of a gain over the \$15 million Congress appropriated in a fiscal year 2016 appropriations bill for a challenge fund.

Nor does the legislation include

a \$100 million per year guarantee for Centennial Challenge projects proposed by the Obama administration.

The Senate energy bill Centennial provision would also establish an endowment for NPS called the Second Century Endowment for the National Park System. It would be financed by "gifts, devises, or bequests."

The House stand-alone bill, HR 4680, approved by the House Natural Resources Committee March 16, would also establish a Centennial Challenge Fund and endowment, but unlike the Senate, would revise senior citizen America The Beautiful Pass rates.

The House committee would do away with a one-time, senior-citizen \$10 fee and substitute either an annual \$20 fee or a permanent \$80 fee.

On the appropriations front, as opposed to the authorizations mentioned above, the Obama administration has requested an increase for the Centennial of between \$190 million and \$250 million in fiscal year 2017, depending on who does the estimate.

Thus far, the House July 14 and the Senate Appropriations Committee June 16 have approved fiscal 2017 spending bills (HR 5538, S 3068) with modest increases for the Centennial.

The House committee said it approved \$65 million in targeted increases above fiscal 2016 levels for the Centennial out of a total Park Service appropriation of \$2.9 billion. The increases include an extra \$35 million for repair and rehabilitation, an extra \$15 million for cyclical maintenance, \$10.7 million for new responsibilities and needs, and several other miscellaneous increases.

In addition to the \$65 million, the committee would set aside \$30 million for Centennial Challenge grants to be met by matching nonfederal contributions. That's twice the \$15 million appropriation Congress approved for the Challenge program in fiscal 2016.

The Senate committee said it

included an extra \$66.5 million for the Park Service Centennial, in addition to \$20 million for Centennial Challenge grants.

Park Service concessioners, in the person of the National Park Hospitality Association, are petitioning Congress to include significant changes in tenure for good performing companies in either S 2013 or HR 4680. The concessioners are asking for an extension of a base contract from 20 years to 30 years and, when a concessioner performs well, authority for NPS to extend a contract.

In a letter to the Wyoming Congressional delegation last month the concessioners asked the legislators to act in Centennial legislation. "We have discussed many of these concepts with you and your staff, and we now ask for your active support on our behalf to ensure we take advantage of this historic opportunity to expand and improve visitor services at national parks in Wyoming and across the country," they wrote.

The concessioners submitted draft legislation to Wyoming Sens. John Barrasso (R-Wyo.) and Mike Enzi (R-Wyo.) and Rep. Cynthia Lummis (R-Wyo.), the text of which says of longer contracts: "A commercial services contract entered into pursuant to this title shall generally be awarded for a term of 10 years. However, the Secretary may award a contract for a term of up to 30 years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term."

Obama designates Atlantic monument; is Pacific next?

President Obama yesterday (September 15) designated a 4,913 square-mile national monument off the North Atlantic Coast.

The White House said the Northeast Canyons and Seamounts Marine National Monument will "include three underwater canyons deeper than the Grand Canyon, and four underwater mountains known

as 'seamounts' that are biodiversity hotspots and home to many rare and endangered species."

The Departments of Commerce and Interior will jointly manage the monument.

The Atlantic Offshore Lobstermen's Association criticized the designation. "We find it deplorable that the government is kicking the domestic fishing fleet out of an area where they sustainably harvest healthy fish stocks," the association said in a statement. "Declaring a monument via Presidential fiat under unilateral authority of the Antiquities Act stands contrary to the principles of open government and transparency espoused by this President."

Now that Obama has designated the Atlantic monument and a massive ocean national monument off the Hawaii coast, the pressure is building on him to do the same for the Pacific Ocean off California. And the pressure is building in opposition to a monument.

At stake is a proposal for a massive California Seamounts and Ridges National Marine Conservation Area that would apply to five-to-10 percent of the ocean off California from three miles offshore to 200 miles.

Reps. Sam Farr (D-Calif.) and Ted Lieu (D-Calif.) introduced legislation (HR 5797) July 14 to designate the monument. However, the Republican Congress will almost certainly not address the bill, leaving the measure as a stalking horse for a national monument to be designated by the President under the Antiquities Act of 1906.

Said Samantha Murray, California Seamounts Coalition Director, "This bill sets the stage for a collaborative process (i.e. national monument) designed to safeguard fragile living habitats and food webs on a series of ancient volcanoes in the deep waters off California." The Marine Conservation Institute, with the backing of more than 100 scientists, is leading the campaign for the seamounts and ridges monument.

But the commercial fishing industry rebelled. It was already stung by Obama's September 1 fourfold expansion of a Papahānaumokuākea monument to incorporate 582,578 square miles of ocean, or 60 percent of the exclusive economic zone (EEZ) around Hawaii.

The Pacific Fishery Management Council told the President this month that the council - one of eight quasi-governmental councils in the country - had already moved to protect 130,000 square miles of seafloor off the West Coast.

Charles A. Tracy, executive director of the council, wrote Obama, "In summary, the Pacific Council works collaboratively with stakeholders to develop meaningful protections of both species and sensitive habitats. We are in the final phase of a six-year process to refine areas to be protected from fishing and non-fishing activities, and all of the proposed national monument areas are already closed to bottom trawling, resulting in extensive seafloor protection."

Tracy added, "Based on our track record of collaborative, effective fisheries and habitat management, the Pacific Council recommends fishery management decisions in the U.S. West Coast Exclusive Economic Zone remain exclusively under authority of the MSA." The MSA is the Magnuson-Stevens Fishery and Conservation Act.

But in introducing his bill Farr said, "Growing up along the Central Coast, I've always loved our oceans and I know how important they are for our environment and economy. In 42 years of serving in elected office, I've championed ocean conservation and policies to improve our coastal communities."

Farr added, "This bill carries on that legacy by bringing together fisherman, tribes, scientists, community leaders, organizations and governments to protect extraordinary waters." Farr is retiring from Congress at the end of the year.

On September 12 the commercial

fishing industry stepped up its demands, asking the White House to forego the designation of any additional ocean monuments, Pacific or Atlantic. More than 900 fishing industry interests signed a letter to the President asking him to defer ocean management to the Magnuson-Stevens law.

The National Council for Fishing Communities wrote President Obama, "The federal fisheries management process is among the most effective systems for managing living marine resources in the world. Through it, government scientists, academic researchers, representatives of the commercial, recreational, and party/charter fishing sectors, and environmentalists routinely arrive at fishery management decisions that, while seldom being fully satisfactory to all of the participants, balance the often competing interests of all of the participants in an open and well-considered manner."

The council added, "The misuse of the Antiquities Act to create a marine monument is a repudiation of past and ongoing efforts to make Magnuson-Stevens management even more effective."

On President Obama's expansion of a Papahānaumokuākea monument off Hawaii, the White House said commercial uses would be curbed in the area: "All commercial resource extraction activities, including commercial fishing and any future mineral extraction, are prohibited in the expansion area, as they are within the boundaries of the existing monument."

But it said some recreational uses would be allowed: "Noncommercial fishing, such as recreational fishing and the removal of fish and other resources for Native Hawaiian cultural practices, is allowed in the expansion area by permit, as is scientific research."

In June Sen. Brian Schatz (D-Hawaii) asked Obama to expand fourfold the Papahānaumokuākea monument to incorporate 582,578 square miles of ocean, or 60 percent of the EEZ around Hawaii. On September 1 Obama did just that.

Rep. Lee Zeldin (R-N.Y.) in July persuaded his House Republican allies to approve an amendment to a fiscal year 2017 Interior appropriations bill (HR 5538) that would prevent the designation of national monuments within 200 nautical miles of the coast of United States.

NPS, FWS closing in on new oil and gas drilling rules

The Park Service September 7 completed a final draft plan that would subject all oil and gas operations in the national parks to new regulations. NPS mirrored a similar move by its sister agency the Fish and Wildlife Service (FWS), which proposed its final draft plan August 22.

Currently, 12 of the 408 National Park System units host oil and gas operations and 60 percent of those are exempt from NPS regulations. The proposed rule would require an agency permit. And it would require operators to pay the full cost of reclamation.

Both NPS and FWS said they anticipate issuing records of decisions early this fall to implement the plans.

In some national parks and wildlife refuges private parties own subsurface rights to minerals and are developing those rights. Both FWS and NPS are attempting to tighten their regulations over the operations.

Says a final EIS accompanying the draft final NPS rule, "Under this provision, all operations within NPS boundaries are required to obtain an operations permit. Under 36 CFR 9.51 (a) - (i), within 90 days of the effective date of these regulations, operators must provide the NPS with required information that would enable the NPS to evaluate all aspects of the existing operation to determine whether these operations are being conducted in compliance with NPS operating standards."

As for bonds, an existing NPS rule establishes a maximum overall cap of \$200,000 per operator, and a maximum

of \$50,000 per well site. The final draft would "make the amount of financial assurance equal to the estimated cost of plugging and reclamation."

NPS said its regulations would apply primarily to 12 park units with ongoing oil and gas development and 30 parks where development is occurring nearby and there is enough oil and gas in a park to make development economic. NPS said there are 534 nonfederal oil and gas wells in the 12 units with ongoing production.

FWS said its proposed final rule would make sure that operators are financially liable for any damage they caused to refuges.

FWS said the regulation would: "ensure operators are properly plugging non-producing wells and containing spills; provide the Service the necessary tools to work with operators through a permitting process to avoid new impacts; allow refuge managers to prescribe measures to prevent or minimize impacts; improve maintenance and monitoring of equipment to reduce the rate of spill incidents; and ensure operators immediately contain and report any spills to the Service and restore any spill damages to refuge resources and uses."

Big Cypress: Oil and gas development in Big Cypress National Preserve has presented the Park Service with an ongoing oil and gas development problem. Most recently on May 6 NPS rejected demands from environmental groups that it bar oil and gas seismic testing in the preserve, and gave the go-ahead for the research program.

NPS said in a finding of no significant impact that exploration of 110 square miles of the preserve could proceed because it would not cause significant environmental impacts. However, NPS said if the holder of subsurface mineral rights in the preserve, Burnett Oil Company, Inc., were to attempt to proceed to development after the testing the company would have to submit a new proposal for further environmental documentation.

Still, environmentalists objected to the seismic testing, perhaps laying the groundwork for a lawsuit. "The Park Service has failed in its *legal* (our emphasis) responsibility to protect the preserve from the irrevocable damage these activities will inflict," said Nicholas Lund, senior manager of the National Parks Conservation Association's Landscape Conservation Program.

The NPS final draft plan/EIS is available at: <http://parkplanning.nps.gov/FEIS9B>. More information on the FWS proposal is available at <http://www.fws.gov/refuges/oil-and-gas/rulemaking.html>.

Senate approves WRDA bill with big Everglades project

The Senate approved September 15 a jumbo water resources bill (S 2848) that includes a major Everglades restoration project called the Central Everglades Planning Project (CEPP).

Conservative Republicans had been divided on the bill, suggesting trouble ahead in the House.

Conservative Sen. Marco Rubio (R-Fla.) was all in because of the CEPP project. "Authorizing the Central Everglades Planning Project is more important than ever, because Florida's ecosystems are being ravaged by toxic algae that is also threatening the livelihoods of thousands of workers and their families," he said. "This project will help move more water south, which is the single most important step we can take toward resolving the serious water issues afflicting Florida and protecting our environment."

But Heritage Action, an arm of the Heritage Foundation, is against the underlying \$9 billion bill, if not necessarily the Everglades project, because of the overall cost. "As drafted, Senators should oppose the Senate's Water Resource Development Act because it expands the federal government and continues to spend taxpayer money with little to no accountability," said Heritage Action's vice president for communications and

government relations Dan Holler.

Another conservative Republican senator, Senate Environment and Public Works Committee (EPW) Chairman James Inhofe (R-Okla.), reluctantly endorsed the Everglades project in the bill.

"I generally don't like Everglades projects," he said on the Senate floor. "In fact, I can remember — it wasn't that many years ago — when I was the only one voting against the Everglades Restoration Act."

But Inhofe said increasingly dirty water is harming local economies, including the South Florida tourism economy. So, he concluded, "If we don't authorize the Central Everglades Planning Project, those communities will cease to exist."

The provision would authorize the expenditure of almost \$2 billion on CEPP — \$976,375,000 from federal coffers and the same amount from the State of Florida.

The conservative opposition didn't block the bill in the Senate, but the House may be a different kettle of fish, where the anti-government spending House Freedom Caucus holds sweeping power. The House hasn't voted yet on a more modest, \$5 billion version of WRDA, HR 5303, which the House Transportation Committee approved in May. No action is scheduled on the measure in the House.

Like the Senate bill, HR 5303 includes \$1.951 billion for the CEPP, with \$976,375,000 from the federal treasury.

Currently, the Corps of Engineers, the State of Florida, the Fish and Wildlife Service, the Park Service, Indian tribes and local governments are working on a \$7.8 billion — and counting — Comprehensive Everglades Restoration Plan (CERP) to restore the Everglades over the next 30 years.

Various projects in CERP have been approved by past versions of WRDAs. The law requires the feds and the state to each put up half of the money needed for each project. Florida

appears to be doing its part because Florida Gov. Rick Scott (R) signed into law April 7 state legislation that would guarantee at least \$200 million per year for Everglades restoration. Although Congress has approved several CERP projects, the Corps didn't clear the CEPP project in time for past WRDA bills. Sen. Bill Nelson has introduced the CEPP project as a stand-alone bill (S 2481) in this Congress.

Notes

Havasu boating dispute continues.

Rep. Paul Gosar (R-Ariz.) is not letting up on the Fish and Wildlife Service's (FWS) spring proposal to limit motorboat use in Havasu Wildlife Refuge. FWS subsequently pulled that proposal under pressure from the Arizona Congressional delegation, but Gosar isn't satisfied. The proposal - a compatibility determination the agency prepares every decade - would largely ban power boating and water skiing in areas that are only appropriate for fishing, hunting and other noninvasive pursuits. But Gosar is now arguing that FWS should also open an area called "Ryde Spot" that was closed to boating in 2015. He wrote FWS Director Daniel Ashe last month asking him to document why the closure of the Ryde Spot would not affect the economy. He said boating on the lake generates more than 2,000 jobs for the area and \$63 million for the local economy. "Any new boating restrictions on Lake Havasu jeopardize those jobs and that revenue for the economy," Gosar wrote. He also objected to the promotion of former refuge manager Linda Miller to deputy manager for the Southwest Arizona National Wildlife Refuge. On its behalf FWS said in its compatibility determination that power boating presents risks to the community and the refuge. Said FWS, "As described in the Anticipated Impacts of Use section, motorized boating activities that do not support priority public uses, including, but not necessarily limited to, waterskiing, wakeboarding, wake surfing, tubing, and other tow-behind devices, can cause conflict with priority public uses and have the potential to adversely impact biological resources." Gosar's letter is here: <http://gosar.house.gov/sites/gosar.house.gov/files/08242016%20>

[Revised%20Gosar%20havasu%20boating%20restrictions%20letter.pdf](http://gosar.house.gov/sites/gosar.house.gov/files/08242016%20Revised%20Gosar%20havasu%20boating%20restrictions%20letter.pdf).

NRPA featuring Dr. Sampson. The National Recreation and Park Association (NRPA) annual conference in St. Louis October 5-8 will feature a dinosaur paleontologist who is an advocate of connecting people to nature, Dr. Scott D. Sampson is president of Science World in British Columbia and host of a television show and author of *How To Raise a Wild Child: The Art and Science of Falling in Love with Nature*. NRPA anticipates more than 7,000 park and recreation professionals will attend its annual conference that will feature more than 200 education sessions. More on Sampson and the opening session is available here: <http://parks.nrpa.org/conference2016/program-schedule/keynote-speaker/>.

Rec data reporting confab

set. Recreation leaders will meet September 27 in a House Office Building to review the state-of-the-art in identifying and analyzing recreation data. The meeting, hosted by the American Recreation Coalition, will hear presentations from CHM Government Services, a company that specializes in recreation, and recreation data providers. The timing is fitting because the Department of Commerce's Economic Development Assistance Program is on track in fiscal year 2017 to conduct a feasibility study on quantifying outdoor recreation's contributions to the nation's economy. A broad coalition of recreation interests in March asked appropriators to put up money for an initiative to identify economic data generated by recreation activity around the country. The Senate Appropriations Committee April 21 approved a fiscal year 2017 appropriations bill (S 2837) that endorses the proposal. Recreation data is now generated in a piecemeal way by individual federal agencies and by industry, such as the Outdoor Industry Association. But those piecemeal studies don't give the data the influence a federal government study would. The rec data conference will be held in the Rayburn House Office building. For information contact Ben Nasta at bnasta@funoutdoors.com.

Boxscore of legislation

Fiscal year 2017 appropriations

HR 5538 (Calvert), S 3068 (Murkowski). House approved July 14. Senate committee approved June 16. Both committees would trim LWCF spending, include fire and PILT appropriation in bill. The administration asks for more conservation spending, including full funding for LWCF.

Fiscal year 2016 appropriations (full-year)

HR 2029 (Dent). President Obama signed into law Dec. 18, 2015, as PL 114-113. Increases spending over fiscal 2015, but wildfires and PILT reduce the total. Few riders make the cut.

Land and Water Conservation Fund

S 338 (Burr), S 890 (Cantwell), HR 1814 (Grijalva), S 2012 (Murkowski), S 1925 (Heinrich), S 2165 (Cantwell), unnumbered draft (Bishop), HR 4151 (Simpson), HR 2029 (Dent). Fiscal 2016 appropriations bill extends program as is for three years. Grijalva introduced April 15, 2015. Senate approved Murkowski bill April 20. Bishop posted draft November 5, 2015. Simpson introduced December 1, 2015. All but Bishop would extend program at \$900 million per year in perpetuity. Bishop would extend for seven years. S 890, HR 1814 and S 1925 would guarantee the money each year. Simpson would change allocation to 40 percent federal, 40 percent state and related initiatives and 20 percent flexible.

Urban park fund

HR 201 (Sires). Sires introduced January 7, 2015. Would authorize HUD grants and HUD loans to provide assistance to urban parks.

NPS Centennial

HR 3556 (Grijalva), S 2257 (Cantwell), HR 4680 (Bishop). House committee reported Bishop bill May 19. Senate approved placeholder legislation (S 2012) April 20. S 3556 and S 2557 are administration bills that would have Congress put up an additional \$800 million for the Centennial in 2016.

Federal land recreation fees

HR 1991 (Bishop), HR 2822 (Calvert),

S 1645 (Murkowski), HR 719, S 2706 (Wyden), HR 4790 (Blumenauer). House committee approved HR 1991 April 29, 2015. Senate hearing September 17, 2015. Weyden and Blumenauer introduced March 17. President Obama signed into law an extension of the fee law through Sept. 30, 2017, as part of PL 114-53 of September 30, 2015. House bill would revise FLREA. Wyden and Blumenauer would streamline rec fees and permits.

Emergency fire spending

HR 167 (Simpson), S 235 (Wyden), S 508 (McCain), S 1645 (Murkowski), HR 2647 (Westerman). Simpson introduced January 6, 2015. Wyden introduced January 22, 2015. McCain introduced February 12, 2015. Senate committee approved S 1645 June 18, 2015. House approved HR 2647 July 9, 2015. All would shift emergency fire fighting costs out of line appropriations and into disaster spending. McCain would also increase timber harvests. Appropriators did not include provision in fiscal 2016 spending bill above.

Monument restrictions

HR 330 (Young), HR 488 (Amodei), S 437 (Murkowski), HR 900 (Labrador), S 228 (Crapo), HR 3946 (Gosar). Young introduced January 13, 2015. Amodei introduced January 22, 2015. Murkowski introduced February 10, 2015. Labrador introduced February 11, 2015. Crapo introduced January 21, 2015. Gosar introduced November 5, 2015. All would require Congressional or state approval of national monuments.

Wetlands regulations

HR 594 (Gosar), HR 2028 (Simpson), S 1140 (Barrasso). House approved HR 2028 May 1. Barrasso introduced April 30, 2015. Would forbid completion by EPA of regulations expanding kinds of water bodies requiring wetlands permits.

Surface transportation

S 1647 (Inhofe), HR 22 (Davis), HR 3763 (Shuster). President Obama signed into law (PL 114-94) on Dec. 4, 2015. Revises law for next six years.

WRDA (Everglades)

HR 5303 (Shuster), S 2848 (Inhofe). Senate approved September 14. House committee approved May 25.