

Federal Parks & Recreation

Bulletin #5: April 27, 2015

Dear Subscriber:

The attached bulletin from Federal Parks & Recreation newsletter reports on the following:

- * **Murkowski would use LWCF money for maintenance, boost states**
- * **House appropriators reduce 302(b) cap for Interior, etc.**

NOTE: This bulletin is a supplement to your regular edition of Federal Parks & Recreation. It is NOT your regular issue. The next issue will be published May 1.
The Editors

Key senator talks of major changes in LWCF emphasis

Sen. Lisa Murkowski (R-Alaska) made clear April 22 that if she gets her way the next iteration of a Land and Water Conservation Fund (LWCF) law will be quite different than the existing law.

That is, LWCF money should also be used for federal land management agency maintenance, Murkowski said repeatedly at a Senate Energy Committee hearing. And she said the state side of the program should be given much greater deference vis-à-vis federal land acquisition, if not more priority.

As chairman of the energy panel Murkowski will serve as the bellwether in the Senate on the future of LWCF as it comes up for renewal. It is scheduled to expire September 30.

In the April 22 hearing Murkowski made known her dislike for federal land acquisition. "As we look to reauthorize LWCF, I believe that it makes sense to shift the federal focus away from land acquisition, particularly in Western states, toward maintaining and enhancing the accessibility and quality of the resources that we have," she said. "This is the best way to put our nation's recreation system on the path of long-term viability."

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Murkowski noted that federal lands already occupy 30 percent of the country and asked Deputy Secretary of Interior Michael Connor, "The question we are dealing with is, do we keep adding to that land bank without focusing on our responsibility for management and maintenance? At what point should the Land and Water Conservation Fund not be the Land and Water Acquisition Fund?"

Connor responded, "As I mentioned in my testimony, 99.5 percent of the acquisition within the last five years has been within the boundaries of (existing) conservation unites." Besides, he said, federal agencies attempt to use the money to actually improve land management by such strategies as adding to conservation values and by acquiring connecting habitat.

For all the faults Murkowski perceived in LWCF, she said, "I fully support reauthorizing this Act, this year, in a way that reflects changing needs and evolving viewpoints about conservation in the 21st century."

A spokesman for Murkowski said that the next step is "undetermined" because the committee has a full schedule for May and June. But he said Murkowski believes the law "needs to be reformed, although she's not committed to any particular level of funding."

Murkowski received strong pushback to the notion of using LWCF money for maintenance from ranking committee Democrat Maria Cantwell (D-Wash.) and Connor. Cantwell said the two programs shouldn't be intertwined.

"I think we at least should all come to an agreement was what the maintenance backlog is in the Department of Interior," she said. "Let's put the number out there and then we can decide what we can do about it. But blaming it all on (LWCF) as the source of taking care of all the backlog on public lands, I think we need to come up with some other remedies."

Connor admitted federal land maintenance has "gotten excessive." But, he said, "We just don't think that needs to compete with LWCF."

By that Connor said the fiscal year 2016 Obama administration budget proposed discrete increases in funding for both LWCF and federal land management agency maintenance – with separate offsets for each.

In submitting its annual budget request to Congress February 2 the Obama administration recommended that Congress (1) appropriate \$400 million for LWCF in fiscal 2016 and (2) by separate authorizing legislation guarantee an additional \$500 million through an extended rewrite of the law.

Here are some of the LWCF-related fiscal 2016 Obama budget requests:

* LWCF FEDERAL APPROPRIATION: For federal land acquisition the administration recommended \$235.8 million compared to a final fiscal 2015 appropriation of \$165.7 million. The breakdown: NPS acquisition, \$64.3 million; BLM, \$38 million; FWS, \$58.5

million; FS, \$63 million; and DoI Valuation Services, \$12 million.

* LWCF FEDERAL (NEW GUARANTEED PROGRAM): This presupposes Congress approves new legislation to guarantee \$900 million per year for LWCF. These recommendations are in addition to the regular appropriations above. The breakdown: NPS acquisition, \$106.7 million; BLM, \$55.4 million; FWS, \$106.3 million; FS, \$64.7 million; and DoI Valuation Services, \$6 million.

* LWCF STATE APPROPRIATION: For state LWCF grants the administration recommended \$53.2 million, compared to a fiscal 2015 appropriation of \$48 million.

* LWCF STATE (NEW GUARANTEED PROGRAM): This allocation presupposes Congress approves new legislation to guarantee \$900 million per year for LWCF. For state grants the proposal would add \$47 million, for a total of \$100 million.

* URBAN PARKS AND RECREATION RECOVERY: The administration recommended \$25 million from a reauthorization of LWCF, compared to no appropriation in fiscal 2015.

As for NPS maintenance the fiscal 2015 Obama administration budget recommends for the Park Service Centennial a \$326 million increase in regular appropriations and \$500 million in a new fund to address maintenance.

The maintenance program would require Congressional approval. Some of the \$500 million could be used by other Interior land management agencies, as well as the Forest Service.

To pay for LWCF, which now uses offshore oil and gas royalties, the administration would use new fees on the energy industry. To help pay for maintenance the administration would seek contributions from nonfederal partners.

But Murkowski was not buying the offsets. "The offsets are not offsets that are going to be acceptable within this Congress," she said.

Former Deputy Secretary of Interior Lynn Scarlett from the George W. Bush administration suggested that the \$22 billion federal land agency maintenance backlog (NPS \$12 billion) could be reduced, if not eliminated, by smart management.

"The central issue is, for which I think there is a remedy, to the maintenance backlog is it needs to be tied to sound agency management," she said. "A seldom-used road for example that is on the list might not really need repair. So they should set clear priorities."

At the same time Scarlett said all entities, whether government agencies or private businesses, have some sort of a maintenance backlog, with industry generally accepting a number of 10 percent of capital replacement costs.

She then used the example of the Fish and Wildlife Service, which went through an exercise to prioritize its maintenance needs. "The Fish and Wildlife Service now has its

backlog down to four percent which is well within industry practice," she said.

Acknowledged Connor, "There is always going to be some level of backlog and we have to separate and prioritize it. That's what we are doing with respect to the National Park System and what the Fish and Wildlife Service has already done."

Cantwell also pointed out that much of the Park Service maintenance backlog was for roads, which a surface transportation law usually funds. "Nearly half of the National Park Service's estimated backlog is attributed to needed repairs for roads and highways within the national parks," she said. "The single biggest improvement we could make in reducing the maintenance backlog would be to increase the funding level in the transportation bill for park roads."

State grants boost: In addition to attacking land acquisition for worsening the federal maintenance backlog, Murkowski said the federal side of LWCF was receiving more priority that it should compared to the state grant program.

"When we talk about the Land and Water Conservation Fund Act these days, it is almost exclusively about federal land acquisition," she said. "And that's a little disappointing here and I am going to be honest with you. Many seem to have forgotten the pivotal role that states have in conservation and outdoor recreation under the act."

"From the start, LWCF monies were to be allocated each year so that federal agencies would receive no less than 40 percent and the States the remainder," Murkowski added. "But once again, with over 85 percent of LWCF funds going to federal land acquisition, it's clear to me we're not meeting that Congressional intent."

Then she dropped the hammer. "So, instead of leaving them on the sidelines, I believe States need to be given the opportunity to lead here," said Murkowski. "States are in the best position to understand and accommodate the needs of our citizens. And not every State has access to federal recreation resources."

The Murkowski spokesman also singled out state grants for praise. "Obviously, there is the issue of rebalancing the law with state grants only getting 12 percent of the total," he said. "The (original) law says it should be 60 percent. She will try to rebalance that."

The National Association of State Park Directors acknowledged that the original LWCF law in 1964 envisioned a 60 percent share for state grants, but that was eliminated in 1976.

Lewis Ledford, executive director of the association, recommended that Congress reinstate the 60 percent share. "It is estimated that dedicating 60 percent of funds to the state assistance program would more than triple the funds available to local communities under the status quo," he said.

By comparing the state program with federal land acquisition, Murkowski touched

on a seldom-mentioned LWCF competition between conservationists, who advocate for federal land acquisitions, and state and local officials, who promote state grants. For the record the two sides are allies, frequently combining on joint letters to Congress seeking support. But off-the-record they frequently jockey for larger bites of the appropriations apple.

The Wilderness Society, long a champion of federal land acquisition, said Congress should fund both. "This hearing should be focused on how Congress plans to permanently fund this highly beneficial program into the future so that all our nation's conservation needs are met, both nationally and locally," said Alan Rowsome, senior director of government affairs at The Wilderness Society.

As expected, House public lands spending cap goes south

Austerity is officially the name of the appropriations game for fiscal year 2016. The House Appropriations Committee made that so April 22 when it set a fiscal year 2016 spending cap for an Interior money bill that is actually less than in fiscal 2015. And that doesn't count inflation.

The committee established a so-called 302(b) allocation of \$30.170 billion for the Interior and Related Agencies bill, compared to a final fiscal 2015 appropriation of \$30.416 billion. That's a decrease of \$246 million.

The chairman of the House Appropriations Committee, Rep. Harold Rogers (R-Ky.), acknowledged the limitations in the caps for all 12 appropriations bills, but said they were fair. "The 302(b)'s before you are fair and balanced, providing funding for each program, agency and department to fulfill each of those purposes," he said. "As we all know we are working under a very constrained budget this year. With these numbers we are making the most of a tough situation. We did make responsible decisions to distribute funding where it is most needed."

But ranking House Appropriations Committee Democrat Nita Lowey (R-N.Y.) warned the committee that excessively austere caps were doomed to failure. "Today's consideration of the 302(b) allocations will essentially dictate if our annual appropriations process succeeds or fails," she said. "If we don't provide reasonable or realistic numbers at the beginning these bills won't pass the floor, won't go to a regular conference with the other body and bills will not be signed into law by the President."

The committee approved the allocations by a voice vote after rejecting a Democratic substitute by a 20-to-29 vote.

Two outside elements will play a role in fashioning an Interior bill this year – emergency fire spending and county assistance under the payments-in-lieu of taxes (PILT) program. If not removed from the appropriations bill, those two programs could eat up between \$500 million and \$1 billion of the total appropriations allocation.

The ranking Democrat on the House subcommittee on Interior appropriations, Rep. Betty McCollum (D-Minn.), said the subcommittee's allocation, combined with the fire and PILT costs, will make the subcommittee's job "extremely difficult."

"Increases in wildfire costs, contract support, Native American programs and PILT, which is now mandatory, alone will total \$1.4 billion," she said. "These costs leave a great hole in the Interior and Environment allocation that will have to be made up with cuts to other programs."

Subcommittee chairman Ken Calvert (R-Calif.), in comments he submitted to *FPR*, did not address the substance of his upcoming bill. But he did say, "The discretionary spending caps we are operating under are the law of the land until the President gets serious about addressing the rising costs of our entitlement programs. I will work with my colleagues on the Appropriations Committee to make the best possible use of the resources we are provided under the caps."

The committee-assigned cap is roughly in line with a Congressional budget (H Con Res 27) that the House approved March 25. It would set a natural resources spending ceiling of \$35.3 billion. The natural resources ceiling doesn't parallel exactly with the cap on the Interior subcommittee bill; portions of other appropriations bills contribute to it.

In the Congressional budget the Senate passed March 27 it set a ceiling of \$36.3 billion for natural resources. However, House Democrats prepared their own budget that would pony up \$38.9 billion in fiscal 2016 for natural resources. The House rejected it.

The House-passed budget also does not recommend that Congress appropriate money for emergency fires through disaster spending nor does it recommend separate PILT legislation. A Senate-passed budget resolution (S Con Res 11) of March 27 would have both those programs financed outside an appropriations bill.

House and Senate Budget Committee leaders say they are now attempting to iron out differences between H Con Res 27 and a Senate-passed budget (S Con Res 11) of March 27, but if they do not, the individual house budgets will probably govern overall spending.

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