

# Federal Parks & Recreation

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## Appropriators attempt to extend spending, move 2 bills

The Senate and House late this week were rushing to complete a two-headed spending bill that would:

- (1) extend interim spending for all federal agencies through December 16 and
- (2) actually complete fiscal year 2012 Transportation and Energy and Water appropriations bills.

A conference committee of House and Senate appropriators from both political parties assembled the legislative package November 14.

The House was scheduled to vote on the bill (HR 2112) late yesterday (November 17) and the Senate was due to vote today (November 18). However, there is always a chance that Democrats and Republicans will find reasons to object to the bill and let the government run out of money. A previous interim spending bill expires today.

**Wetlands fight:** To further complicate things the Senate this week was considering still a stand-alone fiscal year 2012 Energy and Water appropriations bill (HR 2354) to provide money for the Corps of Engineers and the Bureau of Reclamation. In a major test the Senate is due to vote on an amendment that would block a proposed new Obama administration wetlands permit policy.

The amendment, offered by Sen. John Barrasso (R-Wyo.), is supported by commercial interests and land rights advocates but is opposed by sportsmen. The House-passed version of HR 2354 already includes the provision to block the policy.

As for the comprehensive

appropriations package things could still go awry. As Rep. Jeff Flake (R-Ariz.), a member of the House Appropriations Committee, said last week the situation is confusing. "Unfortunately, that appropriations process is foundering and we don't know what is going to happen," he said.

Flake was testifying at a House subcommittee hearing on a rider in HR 2584 that would block the withdrawal of 1 million acres near Grand Canyon. Flake and his allies fear the rider will disappear and the withdrawal will proceed.

As always, spending levels separate the House and Senate and Democrats and Republicans. For the most part the Senate bills that address outdoor policy - Agriculture, Transportation, Energy and Water, and Interior - would provide significantly more money than their counterpart measures in the House.

The Senate Appropriations Committee had more money to distribute than its counterpart House Appropriations Committee because the House bill was put together earlier this year under a particularly strict House budget. That was before Congress reached agreement with the White House on a grand budget agreement (PL 112-25 of August 2) that freed up the extra money.

In addition each House has its own riders, as described below.

During consideration of the Transportation/Agriculture bill (HR 2112) the last few weeks the Senate rebuffed repeated Republican attempts to cut off funding for the transportation enhancements program (*see following article*.) The package bill now before the House and Senate would not limit transportation enhancements.

As for the Senate version of an Interior and Related Agencies appropriations bill, Senate Appropriations Committee leaders October 14 produced a draft that would provide \$1.8 billion more than the House. The Senate mark contains \$29.3 billion. The

House bill contains \$27.5 billion.

INTERIOR BILL NUMBERS: The House spent a week in July working on the Interior bill but did not complete it. At press time House leaders had not established a schedule for taking up HR 2584, either by itself or in an omnibus bill. A brief comparison of some programs:

\* LWCF FEDERAL: Senate, \$187.3 million (BLM \$23.4 million, Fish and Wildlife Service \$59.9 million, NPS \$66.5 million and FS \$37.5 million). House, \$46.7 million. Fiscal 2011, \$164.9 million.

\* LWCF STATE: Senate, \$45 million. House, nothing. Fiscal 2011, \$40 million.

\* FWS CONSERVATION GRANTS: Senate, \$61.4 million. House, \$22 million. Fiscal 2011, \$61.8 million.

\* HISTORIC PRESERVATION GRANTS: Senate, \$47 million. House, \$42.5 million. Fiscal 2011, \$46.4 million.

\* HERITAGE AREAS: Senate, \$17.4 million. House, \$9 million. Fiscal 2011, \$17.4 million.

\* SAVE AMERICA'S TREASURES: Senate, \$8 million. House, nothing. Fiscal 2011, nothing.

\* NPS OPERATIONS: Senate, \$2.230 billion. House, \$2.243 billion. Fiscal 2011, \$2.250 billion.

\* NPS REC AND PRES: Senate, \$60 million. House, \$49.4 million. Fiscal 2011, \$57.9 million.

\* NPS CONSTRUCTION: Senate, \$153 million. House, \$152.1 million. Fiscal 2011, \$184.6 million.

\* FS RECREATION: Senate, \$290.5 million. House, \$281.6 million. Fiscal 2011, \$281.6 million.

\* FS TRAILS: Senate, \$82.2 million. House, not clear. Fiscal 2011, \$88.4 million.

\* FOREST LEGACY: Senate, \$58

million. House, not clear. Fiscal 2011, \$52.8 million.

\* BLM RECREATION: Senate, \$68.7 million. House, \$67.6 million. Fiscal 2011, \$68.8 million.

\* FWS REFUGE MANAEMENT: Senate, \$483 million. House, \$455 million. Fiscal 2011, \$492 million.

**RIDERS:** Although they didn't single out any of the following riders for criticism, 183 Democrats November 1 asked Speaker of the House John Boehner (R-Ohio) to remove controversial amendments from fiscal 2012 appropriations bills.

"As appropriators continue working to meet funding thresholds in the Budget Control Act, it is important that Republicans not risk a government shutdown by playing politics with appropriations bills," said the Democrats, led by House Democratic Whip Steny Hoyer (D-Md.) "Democrats oppose the inclusion of controversial policy riders, which are unlikely to pass the Senate, and we urge you to see that they are removed."

Here are policy amendments that are either in HR 2584 or may be offered to HR 2584 this fall.

**GRAND CANYON MINING:** House bill. House Democrats may offer a floor amendment that would allow the Interior Department to withdraw 1 million acres of federal land from uranium mining near Grand Canyon National Park. As now written the bill would bar such a withdrawal.

Secretary of Interior Ken Salazar June 20 ordered a six-month withdrawal of the one million acres to block temporarily additional uranium development. Then he chose a preferred alternative of a 20-year withdrawal in an EIS that will be completed over the next six months. Salazar said he would make a final decision this fall on a 20-year withdrawal.

**MONUMENTS DESIGNATIONS:** House bill. Rehberg may propose an amendment that would ban the designation of

national monuments by the Obama administration without Congressional approval. A ban on monument designation could be more consequential than a ban on wild lands because the Antiquities Act of 1906 has been used more than 100 times over the last decade to protect large tracts of American land.

If the House takes up a Rehberg amendment, it might simply forbid President Obama from designating national monuments. Or the amendment might allow Presidential designation of monuments under the condition that Congress confirm a designation within two years.

**WILD LANDS:** House bill. In one policy vote July 27 the House approved a provision that would bar the Interior Department from designating any new 'wild lands.' The bar on wild land designations may not be necessary because Secretary of Interior Ken Salazar has said BLM will not on its own designate wild lands but will ask Congress to do so.

**CALIFORNIA OHV ROUTES:** House bill. The provision would direct the Forest Service in California to allow OHV use on "Maintenance Level" roads in national forests. Four Republican House members led by Rep. Wally Herger (R-Calif.) have introduced stand-alone legislation (HR 242).

**MONTANA WILD LANDS:** Senate bill. Based on legislation from Sen. Jon Tester (D-Mont.), this provision would designate 669,100 acres of wilderness and protect another 336,000 acres of special management areas in the Kootenai, Beaver Head-Deerlodge and Lolo National Forests and adjacent Bureau of Land Management properties. Tester faces a tough reelection battle with Rep. Denis Rehberg (R-Mont.)

**BLACKSTONE RIVER VALLEY NATIONAL HISTORICAL PARK:** Senate bill. This rider would establish a new national park in Massachusetts and Rhode Island - a Blackstone River Valley National Historical Park. On October 13 the four senators from the two states along with four House members introduced a stand-alone bill (S 1708, HR 3191).

**THE OTHER APPROPRIATIONS BILLS:**

Here is the status of the three other outdoor-related appropriations bills:

\* AGRICULTURE BILL: The House-Senate conference committee on HR 2112 would provide \$350 million less in fiscal 2012 than in fiscal 2011 for discretionary spending for the Department of Agriculture. For conservation programs the conferees would provide \$45 million less, or \$844 million total.

Sportsmen were particularly upset that the conferees proposed to shut out an Open Fields program that encourages private landowners to host hunting and fishing on their properties.

Said Jennifer Mock Schaeffer, Farm Bill coordinator for the Association of Fish & Wildlife Agencies, "We are deeply disappointed by the shortsighted decision to completely eliminate fiscal year 2012 funding for (Open Fields), which can help stabilize an economy already taxed to the point of collapse."

\* ENERGY AND WATER BILL: The House July 15 approved a fiscal 2012 Energy and Water appropriations bill (HR 2354) that would, among other things, block the proposed new Obama administration wetlands permit policy. The Senate was considering its version of HR 2354 at press time. The Senate bill does not include the wetlands rider, yet.

\* TRANSPORTATION BILL: The House-Senate conference committee approved in HR 2112 \$39 billion for highway programs, or the same amount authorized by an existing surface transportation law,

### **TE program may get short straw in Senate roads bill**

A Senate committee approved a two-year surface transportation bill (S 1813) November 9 that would eliminate several stand-alone recreation programs that are accustomed to receiving as much as \$1 billion per year combined. Guaranteed.

The Senate Environment and Public Works (EPW) Committee would allow the

programs to receive highway law money, but at the discretion of the states. The programs at issue are transportation enhancements (TEs), recreational trails, scenic byways, and Safe Routes to Schools.

The money would be derived from a new umbrella Transportation Mobility Program that would finance other activities such as planning. Committee chair Barbara Boxer (D-Calif.), referring to Oklahoma Sen. James Inhofe (R), said, "In a state like Oklahoma the senator has said the state would not spend any money on (transportation) enhancements. But in a state like mine, Oh My Lord!, they would grab those funds for bike trails."

Inhofe, long a leading Senate critic of enhancements, said, "We have a difference of philosophy about how much money we should spend on bike trails, highway beautification and museums. I think the compromise we came up with is a very good one. If a state wants to use that percentage, whether it is 10 percent of (Transportation Mobility) or two percent of the total funding, it can."

Recreation funding was the single most debated issue during the November 19 EPW committee mark-up of the surface transportation bill - called Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21). Although the committee approved S 1813 unanimously, the measure may not go far because of the lack of money and differences of opinion in the House. *(See related article page 7.)*

Said Boxer near the end of the mark-up, "I want you to know that this (debate over transportation enhancements) was one of the toughest areas of negotiations."

Transportation enhancements and its fellow recreation programs are expected to do even worse when the House Transportation Committee marks up its version of a highway bill. Committee chairman John Mica (R-Fla.) has repeatedly scorned "fluff" programs.

In the Senate the long knives have been out for transportation enhancements

over the last year. Most recently, on November 1 the Senate defeated an attempt to shut off TE money, period. The Senate rejected an amendment from Sen. Sen. Rand Paul (R-Ky.) that would have diverted all TE money to bridge repairs. The vote was 38-to-60.

In a previous attack on TEs Sen. John McCain (R-Ariz.) on October 19 asked the Senate to forbid the spending of TE money on seven conservation-related uses. The vote was 59-to-39 against. Both the McCain and Paul amendments were offered to a Senate Transportation Appropriations bill (HR 2112). McCain would have barred expenditures on such things as scenic highways, landscaping or historic preservation.

Separately, Paul and other Mid-Western Republicans introduced a bill (HR 3085, S 1648) recently that would eliminate TEs. The sponsors of the bill from Kentucky and Indiana are looking for money because of the closure of the Sherman Minton Bridge that carries Interstate 64 between Louisville, Ky., and southern Indiana. The bridge developed cracks last month and needs some \$20 million in repairs.

In still another recent attack Sen. Tom Coburn (R-Okla.) in September prepared an amendment to an interim surface transportation bill (PL 112-30 of September 16) that would also have forbid the distribution of any highway money for transportation enhancements. He later withdrew the amendment.

## **Paterson Great Falls in New Jersey becomes NPS unit**

Secretary of Interior Ken Salazar and New Jersey officials signed paperwork November 7 that officially designated the 397<sup>th</sup> unit of the National Park System - Paterson Great Falls National Historical Park.

The 35-acre site combines the natural beauty of a 77-foot waterfall with the historical significance of the manufacturing plants the waterfall spawned.

Joining Salazar at a signing ceremony were the state's senators, Rep. Bill Pascrell (D-N.J.), Paterson Mayor Jeffrey Jones and NPS Director Jon Jarvis. Congress authorized the historic site as a National Park System unit in an omnibus lands law (PL 111-11 of March 30, 2009) that included more than 160 individual bills.

The formal designation was delayed while the city and the Park Service worked out easements and property transfers at the site.

On November 14 the Park Service announced its intention to prepare a management plan and EIS for the site. The process will begin with scoping meetings at times and places to be determined.

Pascrell, a former Paterson mayor who as a House member sponsored the legislation authorizing the new park, said in a bit of hyperbole, "Today marks a momentous occasion that will serve as the starting gun for the establishment of Paterson Great Falls National Historic Park. I truly believe that our prized natural and historic resource will one day be the crown jewel of the National Park System."

Darren Boch, a native of Paterson, has been named superintendent-designate of the site. He last worked as deputy superintendent for the National Parks of New York Harbor. That includes the Statue of Liberty and Ellis Island.

The City of Paterson was laid out around the falls by Alexander Hamilton in 1778. The electricity from the falls powered generations of manufacturing firms, including the makers of Colt .45 revolvers. But Paterson, the third largest city in New Jersey, has fallen on hard times in recent years.

The hope is that, like Lowell National Historical Park in Massachusetts, the designation will spur economic growth. Said Salazar, "By establishing this park, we not only tell the story of Paterson but we also contribute to the economic growth of the city today by attracting visitors and supporting jobs in local communities."

The designation of the 397<sup>th</sup> park unit follows closely on the heels of the designation of the 396<sup>th</sup> unit November 1 - Fort Monroe National Monument in Virginia.

Like Paterson Great Falls the money to rehabilitate Fort Monroe has not been identified yet. Fort Monroe's rehab itself is estimated to cost in the hundreds of millions of dollars.

## **Popular bill signed to open ski areas to summer uses**

With backing from both Republicans and Democrats President Obama signed into law (PL 112-046) November 7 legislation that authorizes ski resorts that operate on national forest land to provide off-season recreation uses.

The former law that governed skiing in national forests, the 1986 National Forest Ski Area Permit Act, only authorized Nordic and alpine skiing.

The service predicted the new law would be an economic engine in the summer for such famed resorts as Aspen and Vail in Colorado and Jackson Hole in Wyoming. The service estimates it will produce 600,000 additional visits that will in turn produce 600 jobs and \$40 million in *direct* spending.

Chief Senate sponsor Mark Udall (D-Colo.) pronounced himself "ecstatic." As in, "After five years of pushing this through Congress, I am ecstatic that my bill has finally been signed into law. It's a sign that, even after the contentious year we've had in Washington, we can still come together to pass a common-sense fix for communities around the country."

Indeed the House passed the bill (HR 765) October 3 by a unanimous 394-to-0 vote. The Senate passed the bill October 18 by unanimous consent. Rep. Rob Bishop (R-Utah) was the chief House sponsor.

The lack of opposition to the legislation allowed it to move through Congress on its own, rather than in an

omnibus bill that might generate major opposition.

The ski industry is gearing up. Said National Ski Areas Association President Michael Berry, "Ski areas across the country are ready to step up our summer programs and provide our guests a fantastic experience on the slopes during the summer months as well."

The Congressional trail for the legislation was not always smooth. The Forest Service objected to an original bill in the last Congress because it allegedly did not specify adequately what uses should and should not be allowed.

So Udall and the Senate Energy Committee revised the bill to make clear that activities that could damage the forest would be forbidden, as follows:

**WILL BE ALLOWED:** The law specifically authorizes "(A) zip lines; (B) mountain bike terrain parks and trails; (C) frisbee golf courses; and (D) ropes courses." The law does allow other uses "as the Secretary determines to be appropriate."

**WON'T BE ALLOWED:** The law specifically forbids "(A) tennis courts; (B) water slides and water parks; (C) swimming pools; (D) golf courses; and (E) amusement parks."

The National Ski Areas Association represents 121 ski areas on national forests in Arizona, California, Colorado, Idaho, Montana, Nevada, New Hampshire, New Mexico, Oregon, Utah, Vermont, Washington and Wyoming.

Most of the nation's largest ski facilities are located on national forest land. The resorts pay a complicated set of fees to the federal government for long-term permits, usually 40 years.

Not everyone is on board. At a Senate Energy Committee hearing on the Udall bill the Colorado Wild group expressed numerous concerns about possible damage to national forests.

## Jarvis allegedly voided Grand Canyon water bottle ban

Late last year the Park Service reversed a proposal to ban plastic water bottles in Grand Canyon National Park, perhaps at the bidding of the Coca-Cola Company.

Documents released by the environmental group Public Employees for Environmental Responsibility (PEER) infer that NPS Director Jon Jarvis blocked the action because the Coca Cola Company is a major contributor to the National Park Foundation. And the company supposedly opposed the ban because it sells bottled water.

On November 10 PEER filed a Freedom of Information lawsuit against NPS and the foundation seeking records pertaining to the matter. "Why in the world would the Park Service Director swoop down at the last minute to veto a common-sense conservation measure that a park had spent significant taxpayer dollars to implement?" asked PEER Executive Director Jeff Ruch.

The *New York Times* reported that former Grand Canyon Superintendent Stephen P. Martin told the paper the decision to continue to allow water bottles in the park was made at the behest of the company, which has donated more than \$13 million to the nation's parks. And the paper said the Park Service acknowledged Jarvis made the decision.

On May 12, 2010, Martin advised concessioners that operated in the park that effective Dec. 31, 2010, NPS would ban plastic water bottles in Grand Canyon. Some 30 percent of the trash in the park comes from water bottles.

Martin changed course on Dec. 22, 2010, when he advised concessioners that the ban on the sale of water bottles "has been temporarily delayed."

Said Martin in a letter to the concessioners, "The park received direction from the National Park Service Washington Office on December 16, 2010, asking that implementation of the initiative be delayed until further

notice. The Director of the National Park Service is supportive of the park's direction, but it reviewing the matter further and will advise us in due time."

In its lawsuit filed in U.S. District Court for the District of Columbia PEER said it had filed Freedom of Information Act requests to the Park Service about its communications among NPS, the National Park Foundation and the Coca Cola Company. PEER said NPS didn't provide the documents it sought.

Said PEER in the November 10 lawsuit, "Plaintiff sought documents and communications reflecting what top level NPS and NPF officials communicated regarding the proposed ban and rejection, final decision documents regarding the decision and rationale, records reflecting Coca Cola Company's position on the proposed ban of plastic bottles, documents summarizing the conservation or other resource benefits expected from the proposed plastic bottle ban, documents summarizing how much GCNP spent on water filling stations to facilitate the proposed ban, and records detailing Coca Cola money donations to NPF and communications Coca Cola had with the NPF."

Background documents are at the end of a PEER press release at: [http://www.peer.org/news/news\\_id.php?row\\_id=1533](http://www.peer.org/news/news_id.php?row_id=1533).

## Senate panel passes roads bill; are its days numbered?

Although a Senate committee November 9 approved a two-year surface transportation bill that would reauthorize several recreation programs (S 1813), the measure will not likely get far.

In part that's because House Republican leaders intend to include a counterpart House roads bill in a controversial jumbo jobs bill. And those leaders intend to attach to the jobs bill such killer amendments as authority to lease for oil and gas in the Arctic National Wildlife Refuge.

Further complicating things

S 1813, as approved by the Senate Environment and Public Works (EPW) Committee, is not paid for. It is short \$12 billion per year for fiscal years 2012 and 2013, with no identified source of money.

A final factor hobbling S 1813 is the sure knowledge by the senators that by the time the Federal Highway Administration figures out how to implement the complex, huge (900-page) bill, the two-year authorization will have expired.

In that S 1813 would be financed at roughly the same levels as the existing surface transportation law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) - insiders wonder why Congress doesn't simply extend SAFETEA-LU for two years.

That would give Congress time after the 2012 elections to clean things up. The Senate bill is titled Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21).

On the recreation and parks front the Senate committee bill approved a major elimination of stand-alone recreation programs, including transportation enhancements, scenic byways, recreational trails and Safe Routes to School. They would be part of a consolidation of 90 programs down to 30, and would have to compete with each other for money. (See related article Page WHAT.)

S 1813 would retain federal and Indian highway spending as a discrete program with a specific allocation. It would provide \$300 million per year for federal land roads (with \$260 million for the Park Service and Fish and Wildlife Service combined). Federal access roads would receive \$250 million per year.

For its part the House Transportation Committee is expected to mark up a counterpart version of a multi-year transportation bill in the next few weeks. Speaker of the House John Boehner (R-Ohio) has decided to (1) provide full funding of \$40 billion per

year to a six-year bill and (2) to wrap surface transportation into a broader energy and infrastructure jobs bill.

Boehner said he will try to move the controversial package to the House floor by the end of the year.

The Senate and House do have a little time to complete a surface transportation bill because Congress approved an extension of SAFETEA-LU until March 31 (PL 112-30 of September 16).

Although S 1813 faces huge, if not insurmountable, obstacles, the Senate committee members patted themselves on their backs for passing the bill.

Said EPW Committee Chair Barbara Boxer (D-Calif.), "By moving forward with a unanimous vote on MAP-21 today, this Committee sends a strong signal that we are serious about job creation and getting our economy back on track."

Echoed ranking committee Republican James Inhofe (Okla.), "Today's unanimous vote in Committee in support of our highway bill shows that momentum is on our side in the Senate to pass this important jobs legislation."

The chore of finding offsets to pay for S 1813 falls chiefly to Senate Finance Committee Chairman Max Baucus (D-Mont.), also an EPW member, and finance committee ranking Republican Orrin Hatch (Utah). As is the custom in Congress Baucus didn't hint as to where the offsets would come from. That prevents supporters of other programs from getting there first.

Gasoline taxes paid into the Highway Trust Fund would provide about \$28 billion per year, or \$12 billion less than the \$40 billion the House and Senate say are needed. Boehner said the House will attempt to obtain the extra \$12 billion from energy fees.

## **House bill may revive FLTFA; could help Teton purchase**

A bipartisan group of western House members introduced legislation



(HR 3365) November 4 that would revive a federal land sales law, with a new justification.

The justification, said lead sponsor Cynthia Lummis (R-Wyo.), is that some of the money could be used to acquire more than 1,000 acres of state inholdings within Grand Teton National Park. The Interior Department has committed to the State of Wyoming to buy the land for \$107 million, but the source of the \$107 million has not been identified.

"My legislation would reboot FLTFA (the Federal Land Transaction Facilitation Act), which is a balanced and innovative tool capable of making sense of patchworks of public land without leaving the taxpayer to foot the bill, and without adding to the surplus of federally-owned property," said Lummis. "It has proved itself to be a successful program in the past for Wyoming, and it can help us move forward with a much-needed solution for the (Teton) state land parcels."

Under FLTFA, first authorized in 2000, the Bureau of Land Management (BLM), the Forest Service, the National Park Service, and the Fish and Wildlife Service may sell lands slated for disposal under land use plans and use the proceeds to acquire conservation lands. The sales have taken in more than \$100 million over the last decade.

There are a couple of problems. The law expired on July 25, 2011, and Congress has not renewed it. And the old law only authorized the sale of lands cleared before the year 2000 by land use plans.

For the last two Congresses Sen. Jeff Bingaman (D) and Rep. Martin Heinrich (D-N.M.) have attempted to extend and expand the law. This year the Senate Energy Committee June 21 approved legislation (S 714) to extend FLTFA and to include tracts covered by plans completed after 2000. S 714 is waiting Senate floor action, either on its own or, perhaps, in an omnibus bill later this year.

The main difference between the

Senate and House bills is the length of the extension of the law. The Senate would extend it for 10 years and the House seven.

Lummis's House bill enjoys an impressive group of cosponsors. In addition to Democrats Heinrich and Ben Ray Lujan (N.M.), cosponsors include House subcommittee on National Parks, Forests and Public Lands Chairman Rob Bishop (R-Utah) and House subcommittee on Interior appropriations chairman Mike Simpson (R-Idaho).

BLM Deputy Director Marcilynn Burke said at a May 25 Senate Energy Committee hearing the Obama administration "strongly supports" S 714.

Burke said, "Since it was enacted, the BLM utilized FLTFA to sell 327 parcels previously identified for disposal totaling 26,437 acres, with a total value of approximately \$116.3 million. Over the same time period, the federal government acquired 36 parcels totaling 18,135 acres, with a total value of approximately \$49.2 million using FLTFA authority."

Under FLTFA four percent of revenues are allocated to states where sales take place and 96 percent of revenues are made available to the four federal land management agencies for land purchases.

In the Grand Teton situation the final state vote approving the inholding sale came on February 15 when the Wyoming House approved it in a 54-to-6 vote. Gov. Matt Mead (R-Wyo.) then signed the measure into law February 18 as Chapter No. 51.

There has been considerable speculation about where the \$107 million to buy the state properties would come from. State officials had talked about obtaining federal land coal.

But the Obama administration's fiscal year 2012 budget includes a request for a straight appropriation of \$10 million for a down payment on the acquisition of the inholdings. The appropriation would come from the Land

and Water Conservation Fund (LWCF).

However, House Republicans are loath to appropriate money for LWCF. They included no money for new acquisition requests in a fiscal year 2012 appropriations bill (HR 2584).

Coal companies produce a huge portion of the nation's coal from coalmines in the Powder River Basin. Wyoming is the leading coal producing state in the country and the Powder River Basin alone produces more than twice the amount of coal each year as second-place West Virginia, and more than the entire Appalachian region.

While the federals appear to have a valuable bargaining chip, the loss of royalties could pose a budget problem.

### **Is rider to stop Grand Canyon withdrawal in trouble?**

Arizona and Utah Republicans are concerned that an appropriations bill provision to block the withdrawal of 1 million from uranium mining near Grand Canyon National Park is in trouble.

At a House subcommittee hearing a fortnight ago Rep. Jeff Flake (R-Ariz.) said, "Unfortunately, that appropriations process is foundering and we don't know what is going to happen."

He was referring to a provision in a fiscal year 2012 Interior appropriations bill (HR 2584) that would prevent Secretary of Interior Ken Salazar from carrying out the withdrawal.

HR 2584 had been making good progress on the House floor in July until the House, Senate and Obama administration agreed to a grand budget agreement. It freed up some \$25 billion more for appropriations bills than the House had anticipated when it went to work on HR 2584.

Senate and House appropriators now talk of putting together a "clean" omnibus appropriations bill for all federal departments with few riders meaning the amendment to block the

Grand Canyon withdrawal might have to go.

As further evidence of the Republicans' concerns about the withdrawal, Sens. John McCain (R-Ariz.) and Orrin Hatch (R-Utah) in a rare event traveled to the House to appear at a House *subcommittee* hearing on the issue. They backed stand-alone legislation (HR 3155, S 1690) that would block the withdrawal. The Republicans would presumably attempt to move the stand-alone legislation, if the appropriations bill foundered.

Much of the November 3 hearing before the subcommittee on National Parks, Forests and Public Lands was given over to a war of words over the meaning of the Arizona Wilderness Act of 1984 (PL 98-406). McCain said the act represented an agreement among all parties that the 1 million acres would be made available for multiple uses, including uranium mining. In return Congress designated 250,000 acres of wilderness along the strip.

Said McCain, "There is no scientific evidence that modern-day uranium mining in the withdrawal area has violated water quality standards in the Colorado River. The true goal of this withdrawal is to permanently restrict access to a nationally significant uranium resource, which is precisely what we sought to prevent under the 1984 Wilderness Act. What the Secretary (of Interior Ken Salazar) proposes is nothing other than *de facto* Wilderness."

But Mark Trautwein, an aide to former Rep. Morris Udall (D-Ariz.) who worked on that act, told the subcommittee, "Neither the history nor the provisions of Arizona Wilderness Act support the idea that these events settled issues addressed by Secretary Salazar's order. On the contrary, the two are entirely different in scope and purpose. The Arizona Wilderness Act is a wilderness act." He said the existing and proposed withdrawals addressed a separate issue - uranium mining.

The million acres in question, managed by BLM and the Forest Service,

were first closed to new mining claims by a July 21, 2009, segregation notice. The notice had been scheduled to expire on July 20 but Salazar imposed an interim, six-month withdrawal until late December.

The interim withdrawal is designed to provide time for the Interior Department to complete the EIS mentioned by the western Republicans and to issue a 20-year withdrawal. BLM did finish that EIS October 16 with a preferred alternative favoring a 20-year withdrawal.

On publishing the EIS BLM said that the preferred alternative anticipates that, despite the withdrawal, "as many as 11 uranium mines could be operational over the next 20 years," including four ongoing mines. Although existing claims that hold valid existing rights theoretically could be developed after a withdrawal, the mining industry fears that the withdrawal would effectively prevent development of all but a few of the claims.

If Salazar executes the withdrawal, a lawsuit from the uranium industry is all but certain. Pamela Hill, executive director of the American Clean Energy Resources Trust, told us last month, "The third leg (in addition to Interior and Congress) would be legal action. No matter how this turns out we are going to court."

## **EPA agrees to set deadlines for state haze plans**

EPA agreed with environmentalist plaintiffs November 9 on a schedule for states to complete plans to protect air over national parks and wilderness areas from visibility pollution.

The agreement does not mandate any substantive steps for the 43 states to take. EPA said many states are already moving to control visibility pollutants under other regulations.

But the agreement does set deadlines for the states to develop plans to control visibility pollution. If they don't complete the plans on

time, EPA will step in and establish a federal rule requiring compliance. The agreement was submitted to U.S. District Court Judge for the District of Columbia Amy Berman Jackson.

The environmental groups, including the National Parks Conservation Association (NPCA), have been after EPA for decades to crack down on pollutants over national parks and wilderness areas. They allege, and EPA apparently agrees, that various administrations have not complied with 1990 amendments to the Clean Air Act that required states and EPA to clear up haze over Class I federal areas.

The principal pollutants targeted by EPA were (and are) old industrial facilities from 35 to 40 years old, particularly coal-fired power plants in the West. EPA said coal-fired power plants in the East are already required to reduce haze-causing pollutants under separate regulations.

Said EPA, "Today's action by itself does not establish control requirements. Regional haze plans approved by EPA over the coming year will lay out how Clean Air Act visibility goals that Congress mandated more than 30 years ago will be met. States are best suited to meet these goals, and most states are well on their way to having plans in place."

Said NPCA Clean Air Counsel Stephanie Kodish, "More than 30 years ago Congress committed to restoring clean, clear air to America's most prized public lands. Under our decree, this delay will come to an end. At this time next year we should have enforceable plans to protect public health and public lands in 43 states."

In 1977 Congress amended the Clean Air Act to establish an elaborate procedure for the states and EPA to reduce haze over 156 Class I areas - all national parks and wilderness areas of more than 5,000 acres. And to prevent increases in haze.

Although the 1977 amendments, as amended by the 1990 amendments, directed EPA and the states to write

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

Here's the meat of the November 9 agreement, wherein SIPs are state implementation plans and FIPs are federal implementation plans:

"By the 'Proposed Promulgation Deadlines' set forth in Table A below EPA shall sign a notice(s) of proposed rulemaking in which it proposes approval of a SIP, promulgation of a FIP, partial approval of a SIP and promulgation of a partial FIP, or approval of a SIP or promulgation of a FIP in the alternative, for each State therein, that collectively meet the regional haze implementation plan requirements that were due by December 17, 2007 under EPA's regional haze regulations."

## Notes

**Senate panel moves big bills.** The Senate Energy Committee November 10 approved 27 lands bills that may one day be included in an omnibus lands bill, if an omnibus bill is prepared this year or next. Among the bills are measures to establish new national parks, to study possible new parks and to establish a national conservation area. Committee Chairman Jeff Bingaman (D-N.M.) has not proposed an omnibus lands bill for this year (or next) but Secretary of Interior Ken Salazar has. However, House Natural Resources Committee Republicans oppose omnibus legislation. At any rate among the 27 bills approved by the Senate committee are: (1) a bill to establish the first National Park System unit in Delaware - a historical park (S 323), (2) a bill to establish a Harriet Tubman National Historical Area in New York and Maryland (S 247), (3) a bill to study the possibility of a Lower Mississippi National Park in Louisiana (S 1325) and (4) a bill to establish a Rio

Grande Del Norte National Conservation Area in New Mexico on Bureau of Land Management land (S 667). Also of note the committee approved a bill to expand the Public Land Corps Act (S 896) and to authorize acquisition of Revolutionary War and War of 1812 battlefields.

### **House panel moves big bills.**

The House Natural Resources Committee November 17 approved more than a dozen lands bills, including one to establish a Waco Mammoth National Monument in the State of Texas (HR 1545). Committee leaders insist they will not be a party to an omnibus bill to pick up the dozens of individual lands bills the panel has approved this year. But that possibility always remains. Among the bills approved by the House committee is one to establish a new fee policy for cabins on national forest lands (HR 3397). *(See the following item.)*

### **Hastings cabin fee bill moves.**

House Natural Resources Committee Chairman Doc Hastings (R-Wash.) reintroduced legislation (HR 3397) November 10 that would establish a new system for establishing recreation residence payments for cabin owners in the National Forest System. It would establish predictable tiers of fees. The House committee quickly approved the bill November 17. The legislation is aimed at preventing huge spikes in fees when the Forest Service reappraises cabins. The appraisals are presently conducted pursuant to the Cabin User Fee Fairness Act of 2000 (CUFFA). On introducing HR 3397 Hastings said he has revised the fee structure that was in a predecessor bill by establishing new fee tiers. "I remain optimistic the bill will be 'revenue neutral' with the new fee schedule," he said at a September 9 hearing before the bill was introduced. By revenue neutral he means it would not reduce fee revenues in total. The legislation's greatest strength in the last Congress was bipartisan support both in the Senate and the House. Only Rep. Mike Simpson (R-Idaho) cosponsored HR 3397 this year, but Simpson chairs the House subcommittee on Interior Appropriations and is thus in position to add it to an appropriations bill.

The Forest Service says 14,000 cabins dot the national forests. When the recreation residence program began in 1915, the service invited people to build cabins on national forest land. In return the service charged a nominal fee. Congress has from time-to-time revised the fee system, most recently in 2000 with CUFFA.

**DoI backs huge Christo plan.** The Interior Department gave its support November 7 to a project proposed by the artist Christo to drape the Arkansas River in Colorado with fabrics. The eight fabric panels would extend over 5.9 miles of the Arkansas River on Bureau of Land Management (BLM) land in the state. Construction would begin on the \$45 million project next year and the art would be displayed over two weeks in August 2014. Secretary of Interior Ken Salazar said he and BLM approved the project because of its economic impacts. It is expected to generate \$121 million for the area and draw 400,000 visitors. Christo is known for massive drapings, such as wrapping the Reichstag Parliament in Berlin with materials in 1995.

**Rocky Front protections asked.** Sen. Max Baucus (D-Mont) introduced legislation (S 1744) November 1 that takes one more step towards protecting the Rocky Mountain Front in Montana, an area with significant oil and gas potential. S 1744 would protect more than 260,000 acres by designating 208,000 acres of national conservation areas and 67,000 acres of wilderness in the Lewis and Clark National Forest. This is the third major step Baucus has taken - or tried to take - in the last five years to prevent oil and gas development on the front near Glacier National Park. In a first step in 2006 he wrote a bill that withdrew 356,000 acres from development. Then in January of this year Baucus said that oil and gas companies had agreed to relinquish leases covering almost 111,000 acres of the 152,000 acres of leased land on the front. The Baucus initiatives are modest compared to a new House bill (HR 3334) from 29 Democrats that would protect 24 million acres in Idaho,

Montana, Wyoming and Oregon. Rep. Carolyn Maloney (D-N.Y.) introduced the Northern Rockies Ecosystem Protection Act November 3. The measure has been around for well over a decade with such famous backers as the songwriter Carole King.

**Weldon to be number two at FS.**

The Forest Service has named Region 1 Regional Forester Leslie Weldon as the deputy chief of the service. She will serve as chief Tom Tidwell's top aide. Weldon will take over early next year. She replaces Joel Holtrop who retired two months ago. The appointment was well received by a Republican senator, Mike Crapo of Idaho, who has worked with Weldon in the past in a Clearwater Basin Collaborative effort. "Now, we are seeing collaboration work with the Forest Service and I commend today's announcement and promotion of Ms. Weldon to help lead the Forest Service team," Crapo said.

**Latino museum called for.** Nine senators including one Republican introduced legislation (S 1868) November 15 that would authorize a Smithsonian American Latino Museum on the Washington Mall. Sen. Robert Menendez (D-N.J.) was the lead sponsor. The measure was cosponsored by Republican Sen. Marco Rubio (Fla.), giving it bipartisan support. Senate Majority Leader Harry Reid (D-Nev.) was also among the cosponsors. "The story of the American Latino is an integral part of our national narrative and it is only fitting that this story be reflected in a museum that is located on our nation's front yard," said Secretary of Interior Ken Salazar.

**Civil War grants awarded.** The Park Service said November 9 it has awarded \$1.4 million in grants to help with the acquisition of five Civil War battlefields. The recipients include battlefields at Gettysburg, Pennsylvania (\$217,000); Wilson's Creek, Missouri (\$400,000); Bentonville, North Carolina (\$114,000); Cedar Creek, Virginia (\$430,000); and Chancellorsville, Virginia (\$246,425). The grants were made under the National Park Service's American Battlefield Protection Program.

## Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
<b>Appropriations fiscal 2012</b> HR 2584 (Simpson)	<b>(Interior, etc.)</b> House floor in July, but not completed. No Senate action. Senate draft published Oct. 14.	Would reduce grant programs sharply, land management agency less so. Senate draft more generous.
<b>Appropriations fiscal 2012</b> HR 2112 (Kingston)	<b>(Agriculture)</b> Conference committee completed November 14.	Would reduce conservation spending.
<b>Appropriations fiscal 2012</b> HR 2018 (Frelinghuysen)	<b>(Energy and Water)</b> House approved July 15. On Senate floor at press time.	Would block issuance of wetlands permit guidance.
<b>Appropriations fiscal 2012</b> No bill yet	<b>(Transportation)</b> Conference committee completed November 14.	Would maintain highway spending at about fiscal 2011 levels
<b>Appropriations 2011 CR Omnibus</b> HR 1473 (Rogers)	President signed into law April 15 as PL 112-10. substantially.	Reduces spending across the board compared to fiscal 2010, sometimes. Includes Interior, Energy and Water, Agriculture and Transportation bills.
<b>LWCF (guaranteed funding)</b> S 1265 (Bingaman)	Bingaman introduced June 23.	Would guarantee full funding of LWCF each year without appropriations action.
<b>LWCF (fed lands access)</b> S 901 (Tester)	Tester introduced May 5.	Would allocate 1.5 percent of LWCF for access to fed lands for rec.
<b>Urban parks</b> HR 709 (Sires)	Sires introduced February 15.	Would provide \$450 million per year to rehabilitate urban parks.
<b>Roadless areas</b> HR 1581 (McCarthy) S 1087 (Barrasso)	McCarthy introduced April 15. Barrasso introduced May 26.	Would reverse Clinton roadless rule, block Salazar 'wild lands' policy, release FS and BLM roadless areas.
<b>National monuments</b> HR 302 (Foxx) HR 758 (Herger) S 407 (Crapo)	House hearing September 13.	Would require state approval of any national monument under Antiquities Act. Herger, Crapo would require Hill approval within two years.
<b>California Desert monument</b> S 138 (Feinstein)	Feinstein introduced January 25.	Would designate a Mojave National Monument and protect 1.6 million acres.
<b>National parks overflights</b> HR 658 (Mica) S 223 (Rockefeller)	House approved April 1. Senate approved February 17,	House tilts towards tour operators and Senate tilts more toward protection.
<b>Ski areas</b> HR 765 (Bishop) S 382 (Udall)	President Obama signed into law Nov. 7 as PL 112-046.	Would have FS allow year-round rec activities in ski resorts.
<b>NPS air tour policy</b> HR 658 (Mica) S 223 (Rockefeller)	House approved April 1. Senate approved February 17.	Both would revise NPS air tour policy, but bills vary greatly.
<b>Glacier park protection</b> S 233 (Baucus)	Baucus introduced January 31.	Would withdraw from mining 300,000 acres of adjacent national forest.
<b>Delaware national park</b> HR 624 (Carney) S 323 (Carper)	Senate hearing May 11.	Would designate a first national park in the first State of Delaware.