

# Federal Parks & Recreation

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## **NPS-NYC deal highlights city parks meet; New York's proud**

The signature event at a landmark conference on urban parks this week in New York City was the execution of a joint Park Service-New York City agreement to cooperatively manage a large bay near the city.

The feds and the city will coordinate management of the land and waters in Jamaica Bay. The 10,000 acres at the site off Brooklyn's shore include portions of the Gateway National Recreation Area and the NPS-managed Floyd Bennett Field, a subdivision of the recreation area. The plan was first announced last October.

But the conference went well beyond that agreement. Among other things New York City Mayor Michael Bloomberg described how his city in tough economic times could greatly expand New York's park system. Perhaps to the envy of state and park officials across the country.

Bloomberg said it was not just city money at work. Indeed he said New York could not have afforded the \$3 billion spent on city parks over the last decade without a lot of help. The task required the cooperation of state and local governments and nongovernment partners.

The investment was worth it, the mayor said. "Number one, these investments pay back many times over," Bloomberg said. "Number two the time to make these investments is during the tough times. In some senses that is the good news in tough times because you can get people to make the investments that make our future."

Bloomberg made his presentation at a Great Urban Parks conference hosted by

New York City July 14 through July 17. It was attended by much of the nation's urban parks establishment, including Secretary of Interior Ken Salazar, NPS Director Jon Jarvis, and city officials and parks advocates from around the country.

The signature event again was the execution of the joint agreement to manage Jamaica Bay. Alexander Brash, senior regional director of the National Parks Conservation Association, said of the deal, "The people of New York City have recognized that parkland in and around Jamaica Bay represent the last great gem in the city's jewels of parkland, and we are delighted that this new partnership and conservancy will help it to finally shine."

At the event Salazar touted the Obama administration's commitment to the nation's great urban parks as a central element of the President America's Great Outdoors Initiative. The Interior Department says it has undertaken 101 "signature projects" to boost great urban parks.

The department often mentions a Los Angeles River Trail as an example of its commitment to urban parks. The City of Los Angeles is committed to converting a cement trough that now moves water into the city as a major park to serve 5.7 million people.

The Obama administration also often mentions as an example of its support for urban parks its budget requests to Congress for significant spending for the state side of the Land and Water Conservation Fund (LWCF).

Says the Interior Department's fiscal year 2013 budget request, "In 2013, the budget proposes \$60.0 million, a programmatic increase of \$14.9 million over the 2012 enacted level. Included within this request, is \$36.5 million that would be allocated to States through a formula. An additional \$20.0 million would be allocated to States based on a competitive process targeting priority projects that support the America's Great Outdoors initiative. This component will promote projects that support both outdoor recreation and

conservation in urban areas where access to open space is limited; protect, restore, and connect natural landscapes; and provide access to rivers and waterways."

However, the Republican House has been less enthusiastic about state LWCF grants. It put up no money in a fiscal year 2012 appropriations bill (although Congress did eventually approve \$45 million). And a fiscal 2013 money bill (HR 6091) approved by the House Appropriations Committee June 28 includes no state grant money.

In Bloomberg's address to the conference he explained how New York, working with its partners, has come up with the startling number of \$3 billion for parks in the last decade, with another \$1 billion in the pipeline. He said the city alone could not do it by itself, that it took a three-pronged attack including collaboration among city groups, partnerships with the feds and partnerships with other entities.

Bloomberg described how the city was able to expand its park base during a recession. "From the beginning we have pursued a three-tier strategy to maximize our ability to expand and improve parks," he said. "First, we have expanded collaboration among city agencies. Second, we have expanded partnerships among city, state and federal agencies. And third we have put public-private partnerships to work as never before."

As an example of cooperation among city, state and federal governments he offered the 172-acre Governors Island one-half mile from the southern tip of Manhattan. On Jan. 31, 2003, the federal government sold most of the island to the city for \$1. The Park Service retained Fort Jay and Castle Williams on the island as a national monument.

Bloomberg summarized a cooperative effort with the Park Service to restore Governors Island, including "a \$260 million investment our administration is making over the next two years to develop a new park and public spaces. . ."

The conference was sponsored by the decade-old City Parks Alliance (<http://www.cityparksalliance.org>) that was in turn based on Lila Wallace-Reader's Digest Fund's Urban Parks Initiative of the 1990s.

Some of the credit for the parks resurgence in Manhattan has been attributed to parks director Adrian Benepe. He announced last month that he was leaving the city to become senior vice president of city park development at The Trust for Public Land.

During the tenure of Bloomberg and Benepe, the City of New York has created or renovated the following areas, according to the Trust for Public Land, "Brooklyn Bridge Park, Fresh Kills Park on Staten Island, Manhattan's Highline, the Yankee Stadium replacement parks in The Bronx, the West Harlem Piers Park, Bushwick Inlet Park in Brooklyn, Elmhurst Park in Queens, the Concrete Plant Park and Barretto Point Park in the Bronx, Icahn Track & Field Stadium and Randall's Island Fields, the Ocean Breeze Track and Field Center under construction on Staten Island, Brooklyn's Prospect Park Lakeside Center, and the Flushing Meadows Pool and Rink in Queens. In addition, 40 miles of greenways in parks were created."

## **House money bill with little green money set for floor**

Like last year, conservation programs will not likely make much progress when a fiscal year 2013 Interior and Related Agencies appropriations bill (HR 6091) reaches the House floor, perhaps in the next fortnight.

Like last year, those conservation programs are slated for major reductions by the House Appropriations Committee. And like last year supporters will rely on the Senate and the Senate Appropriations Committee for help.

For now expect little House floor action on the money side because (1) the House Republican majority is in no mood to spend additional money on any federal programs and (2) Congressional

rules require offsets, so proponents of increased spending for one program would have to take money out of another program.

Still, there may be floor fights over riders in the version of HR 6091 approved by the House Appropriations Committee June 28, beginning with a provision in the bill to cut off money for an Obama administration National Ocean Policy.

The House Appropriations Committee June 27 voted by a 27-to-20 margin to leave in the bill the provision that would block implementation of a National Ocean Policy

The committee rejected an amendment from Rep. Norman Dicks (D-Wash.) that would have stricken the provision and allowed the Obama administration to implement its new policy. Dicks said the proposed National Ocean Policy would help the nation plan ocean uses rationally.

But critics such as House Natural Resources Committee Chairman Doc Hastings (R-Wash.) charge that the policy constitutes ocean zoning that would limit numerous uses, including sport fishing.

The Obama administration formally proposed implementation of the national policy January 12 that is designed to coordinate management of the nation's oceans, coasts, and Great Lakes. The administration said it intends to publish a final implementation plan later this year.

As for the money, in a 26-to-19 vote the House Appropriations Committee passed a version of HR 6091 that would reduce Land and Water Conservation (LWCF) spending by 80 percent (an appropriation of \$66 million), would cut Park Service spending by five percent (by \$134 million) and the Fish and Wildlife Service (FWS) by a big 21 percent (by \$317 million).

The Land Trust Alliance, backers of LWCF, warned its members in a recent alert not to hold out much hope in the House: "These cuts are drastic, but

there's reason for hope! The Interior numbers (for LWCF) are actually slightly better than the initial House proposals for fiscal years 2011 and 2012. Last year, Senate appropriators stood firm and secured a modest increase in LWCF."

HR 6091 is now ready for the House floor. However, the appropriations panel last year approved a fiscal 2012 money bill on July 12, 2011, but the House never completed its bill. The bill was eventually absorbed by an end-of-the-year omnibus spending measure.

While nothing is scheduled, the measure is expected to reach the floor in July. Last year the bill reached the floor 12 days after committee passage.

The House subcommittee on Interior appropriations that drafted HR 6091 was faced with a tough spending cap of \$28 billion, or \$1.2 billion less than a fiscal 2012 number of \$29.2 billion. The Senate Appropriations Committee has assigned a fiscal 2013 ceiling of \$29.662 billion for the bill.

Although it cut back on conservation spending the House committee rejected at least two administration proposals to provide added revenues to reduce the deficit - higher fees for the oil and gas industry and the livestock industry for operating on public lands.

The Senate and House will be locking horns over the \$1.662 billion differential and the riders over the course of the summer and fall.

Here's how the three other major outdoor spending bills stand:

**Transportation:** The Senate Appropriations Committee approved a fiscal 2013 transportation money bill (S 2322) April 19 with an appropriation of \$53.4 billion, or almost \$4 billion less than the fiscal 2012 appropriation of \$57.3 billion. The House Appropriations Committee approved its bill June 19 with a spending allocation of \$51.6 billion.

**Energy and Water:** The House approved \$32.1 billion for an Energy and Water spending bill (HR5325) June 6, or

just about the same as the fiscal 2012 appropriation. The \$32.1 billion is \$1.3 billion less than the Senate 302(b) allocation of \$33.4 billion. The Senate committee approved its version of a bill (S 2465) April 26.

**Agriculture:** The Senate committee approved an agriculture appropriations bill (S 2375) April 26 with a spending cap of \$20.8 billion, or \$1.4 billion more than a House cap of \$19.4 billion. The House Appropriations Committee approved its bill June 19.

As for the Interior bill, as approved by the House Appropriations Committee June 28:

**SPENDING:** Here are a few of the numbers in the House subcommittee bill:

\* *LWCF ACQUISITION:* For federal acquisition the request is \$51,578,000 compared to a fiscal 2012 appropriation of \$186.7 million. For state grants the committee would provide \$2,794,000, compared to a fiscal 2012 appropriation of \$45 million.

\* *STATE WILDLIFE GRANTS:* The committee would provide \$30,662,000 compared to a fiscal 2012 appropriation of \$61.3 million.

\* *HISTORIC PRESERVATION FUND:* The committee recommended \$42.5 million for State Historic Preservation Offices, a reduction of \$4.425 million from the \$46.925 million appropriation in fiscal 2012.

\* *NPS OPERATIONS:* For Park Service operations the committee would provide \$2,228,409,000, compared to a fiscal 2012 appropriation of \$2.240 billion.

\* *NPS CONSTRUCTION:* The committee recommended \$131.2 million for Park Service construction, or \$24.2 million less than the fiscal 2012 appropriation of \$155,336,000.

\* *NPS REC AND PRES/HERITAGE AREAS:* The committee recommended \$51.8 million for the National Recreation and Preservation program administered by NPS, or \$8 million less than the fiscal 2012 appropriation of \$59.9 million.

The big decrease stems from the Heritage Partnership Program. The committee recommended \$9.3 million, or \$8 million below the \$17.3 million of fiscal 2012.

\* *FWS*: For operation of the Fish and Wildlife Service the committee would provide \$1,040,488,000 compared to a fiscal 2012 appropriation of \$1,226,177,000.

\* *FOREST SERVICE*: For the National Forest System the committee would provide \$1,495,484,000 compared to a fiscal 2012 appropriation of \$1,554,137,000.

\* *WILDLAND FIRE FIGHTING*: The committee said it would provide \$3.2 billion for wildfire fighting and prevention, meeting the 10-year average for fire suppression costs. The bill includes for Interior Department fire fighting \$746 million and for an emergency FLAME account \$92 million. For the Forest Service it provides for fire fighting \$2.072 billion and for FLAME \$315 million.

**RIDERS**: Here are a few of the riders in the House subcommittee bill:

\* *WILDLANDS*: Continuing a provision in last year's appropriations law, the committee would bar the Obama administration from carrying out a proposed policy of identifying and designating wild lands. Republicans argue that only Congress has the authority to designate wilderness.

\* *OCEANS*: Deferring to a request from House Natural Resources Committee Chairman Doc Hastings (R-Wash.), the committee would block implementation of a National Oceans Policy proposed by the Obama administration. Hastings argues the administration policy would lead to zoning of the ocean and a decrease in recreational fishing opportunities.

\* *WETLANDS*: The bill is but one of many places House Republicans are trying to block implementation of a proposed administration wetlands policy. Republicans argue that the policy would require a permit for nonnavigable waters, in violation of Supreme Court decisions.

\* *HUNTING*: The bill would declare public lands open to hunting unless specifically closed. This proposal enjoys some Democratic support and is being proposed by House and Senate Republicans and Democrats in several other bills.

## **NPS bicycle rule sparks new dispute; Sen. Udall backs**

Environmentalists and off-road vehicle advocates are squaring off once again over a final new Park Service rule that may expand bicycle use in the national parks.

But this time a very important player who often sides with environmentalists - Sen. Mark Udall (D-Colo.) - has come down on the side of the bicyclists.

Sparking the new debate is the final rule - effective August 6 and published July 6 - that would authorize park superintendents to open to bicycle use existing trails that are now closed. A superintendent could also open new trails to bicycle use.

In addition to park roads that are now open to vehicles, the new rule would open ways such as fire roads and maintenance roads to mountain bikes.

Udall said it was a good idea. "As an avid supporter of outdoor recreation and healthy living, I am quite pleased that the National Park Service has streamlined the process to make mountain biking available in our national parks without compromising the values that make our parks the envy of the world," he said.

But the Public Employees for Environmental Responsibility (PEER) objected that the rule could open up "30 million acres of national park backcountry and scenic trails" to mountain bikes.

Said PEER Executive Director Jeff Ruch, "Make no mistake, this is a significant relaxation of national park resource protection. It adds insult to injury that it slithered out with

no warning on the day after the Fourth of July." Indeed the Park Service did publish the regulation on a Friday (July 6). Fridays are the traditional dumping ground for controversial government actions. It was a holiday weekend too.

But the rule has friends, including the BlueRibbon Coalition, which usually represents powered vehicle users. Said coalition public lands policy director Brian Hawthorne, "When creating the National Park System, Congress mandated that the Park Service 'promote' and 'provide for the use and enjoyment' of park resources and 'leave unimpaired for the enjoyment of future generations.' Allowing Park Superintendents to allow mountain bikes is the right thing to do."

PEER is particularly concerned that the rule would open the way for final approval of a proposed 10-mile mountain biking trail in an undeveloped area of Big Bend National Park. There are already 100 miles of paved roads and 160 miles of dirt roads open for mountain bikers within the park.

The Park Service described the Big Bend proposal this way, "Approximately ten miles of trail would be constructed, in two phases, for use by hikers and bicyclists. The proposal includes creating a trailhead parking and picnic area near the Panther Junction Visitor Center, and a second trailhead along the Grapevine Hills road. The area is not within the Recommended Wilderness areas of Big Bend backcountry, which remain off-limits to mountain bikes."

The new national mountain bike rule will not affect a proposal of the Chattahoochee River National Recreation Area to open to bicycling nine miles of new or revised trails outside of developed areas.

The park proposed the rule July 10 as a special regulation, not as an action under the new rule that authorizes superintendents to designate mountain biking ways.

The Reagan administration on April 2, 1987 issued a mountain bicycle rule that required preparation of an

environmental assessment (EA) and publication of a final rule in the *Federal Register* before opening a way to mountain bikes. The Bush administration proposed a rule Dec 18, 2008, that would loosen that requirement.

The Obama administration followed up on the Bush proposal in its July 6 final rule and took it a step further by eliminating the *Federal Register* notice. "Unlike the proposed rule, the final rule does not require that notice of an EA for bicycle use be published in the *Federal Register*," the rule says.

## House committee approves Manhattan Project designation

House Natural Resources Committee Democrats July 11 accepted legislation that would establish a Manhattan Project unit in the National Park System, but without allowing land acquisition.

The Democrats didn't follow up on Obama administration objections to three provisions outlined in a June 28 hearing. The committee approved the legislation by unanimous consent without changing the original bill.

Perhaps the momentum behind the much-lauded bill (HR 5987) from committee chairman Doc Hastings (R-Wash.) will wash over all objections. Anyhow Hastings said he wants to see the bill enacted this year.

The Manhattan Project has been called "the most significant military industrial achievement in the history of the world," according to Ray Smith, a project historian, according to the Knoxville News Sentinel.

Supporters of the legislation described the importance of the locations. "A National Park site would put the atomic bomb in a historical context," said Cindy Kelly, president of the Atomic Heritage Foundation. "This history reflects the many ways that nuclear science has changed the course of history."

The lead House bill, reflecting western Republican concerns about an

expanding federal land base, would not allow land purchase. It would also forbid the use of condemnation to obtain land and would bar federal agencies from establishing a "buffer zone" around the park properties.

A counterpart Senate bill (S 3300) from Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) specifically authorizes land acquisition, does not mention condemnation and does not mention buffer zones.

In testimony on the House bill June 28 the Obama administration said it was apprehensive about those three areas of the House bill. "Among our concerns are the bill language regarding the written consent of owners; land acquisition limitations; and activities outside of the park," Victor Knox, associate NPS director for park planning, told the House subcommittee on National Parks.

The day before the House hearing the administration effectively endorsed the Senate bill in a Senate subcommittee on National Parks hearing. Herbert Frost, associate NPS director for natural resources, said the administration supports S 3300.

Both Frost and Knox said operations and maintenance costs would range from \$2.45 million to \$4 million per year and the writing of a management plan would cost \$750,000.

As for new land acquisitions Cox said the price had yet to be determined. "Costs of acquiring lands or interests in land, or developing facilities, would be estimated during the development of the General Management Plan," he said.

The site would focus on three locations where the atomic bomb was devised and built - Los Alamos, N.M.; Oak Ridge, Tenn.; and Hanford, Wash. Most of the land and buildings would come from existing Department of Energy facilities. But the legislation does authorize the acquisition of private land from willing sellers.

The Park Service has completed

a study of the proposed site and recommended its designation.

## **USDA, rec industry take steps toward partnership pilots**

The Agriculture Department and the recreation industry at a July 17 meeting refined an ambitious joint effort to modernize and upgrade national forest recreation sites, particularly campgrounds and marinas.

In a half-day meeting, the two sides agreed to take three immediate steps toward developing partnership pilot projects. For one thing by September 1 they hope to agree on potential pilot projects.

A summary of the meeting obtained by FPR says a second step consists of the identification of Forest Service policies and laws to determine what new laws and rules may be required. Finally, the two sides will assess the financial feasibility for private investments in national forest recreation sites.

In general the partnership projects would provide such features as modern facilities (hook-ups, dump stations, WiFi), onsite vehicle storage (from recreation vehicles to boats) and longer site management permits.

The recreation industry, as represented by the American Recreation Coalition and other groups, would like "an initial emphasis on increasing private investments in campgrounds and marinas," according to the summary.

Among the eight planks that industry presented to Under Secretary of Agriculture Harris Sherman and Forest Service officials one received an immediate veto - in-season storage of recreational vehicles on national forest land.

But the other seven elements did receive a better reception, with qualifications:

1. Campground "makeovers" and service expansion

2. Marina "makeovers" and service expansion
3. In-season RV storage on national forests
4. In-season OHV storage on national forests
5. Partnerships with key DMOs on outreach, in-forest services including apps and more
6. Expansion of use of conservation corps by FS, partners, and
7. National Forest Recreation Centers: consolidation and expansion of recreation at key recreation "gateways" to national forests.

As we reported in the June 22 issue of the newsletter there will be objections from recreation users who would rather work with Forest Service facility managers than private concessioners. And there is a significant segment of users who will object to the alleged transformation of public lands recreation sites into theme parks.

Kitty Benzar, president of the Western Slope No-Fee Coalition, told us, "I have no comment on the specifics, but it sounds like a push for further privatization of public lands, and I think we are already too far down that path. Private concessionaire operation of public lands is unpopular with the public and the prices are higher than federally operated facilities - it's a lose/lose as far as I'm concerned."

Despite the criticism the recreation industry and the Department of Agriculture have begun to set deadlines for action. Most immediately they intend to complete work on the three steps mentioned above - identification of potential pilots, identification of Forest Service policies and laws, and financial feasibility.

Seventeen people attended the meeting including American Recreation Coalition President Derrick Crandall, Sherman, Deputy Forest Service Chief Leslie Weldon and representatives of such groups as the American Hiking Society, Kampgrounds of America, Inc., and the Recreation Vehicle Dealers Association.

## **Fed lands hunters have their advocates in election year**

Senators and House members from both political parties continue to flood Congress with legislation to provide greater access to federal public lands for hunting and fishing. But just about all the legislation has come with complications, some serious.

For instance, the House approved a bill (HR 4089) in April that would declare all public lands open to hunting and fishing, unless specifically closed. But that measure includes a number of other provisions that the Senate is sure to reject, such as limitations on national monument designation.

Similarly, in the Senate Sens. Jon Tester (D-Mont.) and John Thune (R-S.D.) had put together a comprehensive hunting access amendment (SA 2232) to a farm bill (S 3240). It would do such things as dedicate 1.5 percent of federal land acquisition money to hunting and fishing access on the public lands. But Senate Agriculture Committee leaders dropped the amendment before it could reach the Senate floor, presumably because it was not germane to the farm bill.

Most recently, on the House floor July 12 Rep. Raúl Grijalva (D-N.M.) unsuccessfully offered an amendment to a bill to promote hard rock mining that would protect hunting and fishing. The Grijalva amendment would have forbid any mining activities from diminishing access for hunting, fishing, grazing or recreation on the public lands.

Said Grijalva of the bill and his amendment, "This legislation would put mineral extraction on public lands above all other uses, jeopardizing hunting, fishing, livestock grazing, outdoor recreation, and many other critical uses of our public lands. . . My amendment will make sure that other important uses are not pushed aside, that all Americans continue to have access to their public lands."

House Natural Resources Committee Chairman Doc Hastings (R-Wash.), a supporter of the House-passed open-



unless-closed hunting bill, opposed the Grijalva amendment as mischief.

"(T)his is an anti-mining, anti-jobs amendment, and it is not a pro-sportsman amendment," he said. "I believe strongly in multiple uses of our Federal lands. It is something that as chairman of the (House) Natural Resources Committee, I take very, very seriously, and multiple means economic activity and recreational activity."

The vote against the Grijalva amendment was 167-to-248.

All the hunting and fishing access legislation from Republicans and Democrats alike is designed to (1) promote recreation on the public lands and (2) curry favor with sportsmen in an election year.

Thus far conservationists are split on the legislation. The Theodore Roosevelt Conservation Partnership, which represents hunters and fishermen, has supported most access legislation, although it opposes provisions that would restrict national monument designations.

Environmental groups such as The Wilderness Society and the National Parks Conservation Association (NPCA), oppose the House-passed open-unless-closed bill. NPCA said that even though the bill does not "require" national parks and monuments to be opened for hunting, they still may be opened.

And NPCA said the provision would open NPS units that are neither national parks nor national monuments to inappropriate hunting, fishing and recreational shooting.

Here are a half-dozen of the various proposals:

*HOUSE-PASSED BILL:* The House approved this bill (HR 4089) April 17 by a strong 274-to-146 vote. It would declare all public lands open to hunting and fishing, unless specifically closed; require state approval before a President could designate national monuments; declare hunting and fishing as "necessary" for the management of

wilderness and potential wilderness areas; authorize the import of dead polar bears; and exempt hunting and fishing gear from the Toxic Substances Control Act.

*SENATE AMENDMENT OF HOUSE BILL:* Senate leaders June 18 refused to consider the House bill as an amendment to a farm bill (S 3240). The substance of the amendment was essentially the same as the House bill, HR 4089.

*APPROPRIATIONS BILL:* The House Appropriations Committee included in an Interior and Related Agencies bill (HR 6091) June 28 an amendment that would declare public lands open to hunting unless specifically closed. The provision includes none of the complications in HR 4089 above.

*TESTER-THUNE AMENDMENT:* Senate leaders June 18 refused to consider the Tester-Thune amendment to the farm bill. The amendment would do such things as dedicate 1.5 percent of federal land acquisition money to hunting and fishing access on the public lands and reauthorize a Federal Land Transaction Facilitation Act through 2021.

*SENATE OPEN-IF-NOT-CLOSED:* Senate leaders June 18 refused to consider this amendment to the farm bill. It would simply designate public lands as open for hunting and fishing unless closed, like the House Appropriations Committee bill. Sens. Lisa Murkowski (R-Alaska) and Joe Manchin III (D-W.Va.) were the sponsors.

*GRIJALVA MINING AMENDMENT:* The House July 12 rejected this amendment from Grijalva that would not allow mining that would "diminish opportunities" for hunting, fishing and recreation. It was defeated 167-to-248.

*HEINRICH BILL:* Rep. Martin Heinrich (D-N.M.) introduced this legislation (HR 6086) July 9 that would (1) dedicate 1.5 percent of federal land acquisition money to hunting and fishing access on the public lands and (2) direct federal land management agencies to list federal public lands open to hunting, fishing and recreation but for which access is forbidden or restricted.

## House farm bill cuts back on conservation; Open Fields in

Congress almost certainly will fail to approve a contentious new farm bill before the current one expires on September 30, but there is a good chance the legislation will be addressed after the November 6 elections.

The legislation took a step forward July 12 when the House Agriculture Committee approved its version of a five-year authorization bill (HR 6083).

As far as conservation goes HR 6083 is far leaner than a counterpart bill (S 3240) the Senate approved June 21. For instance the House would consolidate 23 conservation programs into 13 and reduce conservation spending by \$6 billion over a decade

And the Senate would provide \$40 million spread over five years for the Open Fields program titled the Voluntary Public Access and Habitat Incentive Program. The House would provide \$30 million.

The legislation is contentious because conservative Republicans want to cut back spending on the total bill far more than do moderate Republicans and Democrats. The Obama administration supports the Senate bill.

Because of the disagreements about spending in the House, House leaders have not put the agriculture committee bill on the House agenda, signaling it will be deferred until after the election.

Ranking House Agriculture Committee Democrat Colin Peterson (D-Minn.) is keeping the pressure on the House Republican leadership.

"I'm pleased today's markup is behind us and we can continue to move the process forward," he said. "The current farm bill expires on September 30 and there are only 13 legislative days before the August recess. Simply put, the House leadership needs to bring the farm bill to the floor for a vote."

And committee chairman Rep. Frank Lucas (R-Okla.) has been widely quoted as anticipating an extension of the existing five-year farm bill (PL 110-246) of 2008.

Overall the House bill would reduce farm spending by \$35 billion over the next 10 years, or \$12 million more than the \$23 billion the Senate would cut out.

Conservationists generally praised the House measure, despite the spending reductions. "Overall, the House Agriculture Committee-reported Farm Bill is not only good for working farmers and ranchers by helping them stay on their land," said Dan Wrinn, director of public policy for Ducks Unlimited. "It also provides solid and significant programs and measures necessary to conserve waterfowl and other wildlife habitats - and continues to ensure our nation's rich hunting heritage, which benefits rural economies."

Secretary of Agriculture Tom Vilsack sharply criticized the House bill. "These cuts wouldn't just leave Americans hungry - they would stunt economic growth," he said. "The bill also makes misguided reductions to critical energy and conservation program efforts."

Here's some of what the Senate-passed and House committee-passed bills would do:

**Open Fields:** In the Senate bill Section 2503 is formally titled the Voluntary Public Access and Habitat Incentive Program. The bill would extend the program for five fiscal years beginning with fiscal 2013 and provide \$40 million total over the five years.

The money would be used to continue an existing program that has passed \$50 million in grants through states to encourage private landowners to welcome outdoor recreationists on their lands.

The House committee bill in Section 2503 would also extend the program for five years and provide \$30 million over that time. The House

committee also asks for a status report within two years.

Among other things under the program the states provide rental payments to landowners as an incentive to open their lands to hunters, fishermen and other recreationists. The Farm Service Agency administers the program.

**Conservation Reserve Program:** The Senate and the House committee both extended this program that pays farmers not to cultivate marginal land. Farmers have enlisted millions of acres in the program through contracts that last from 10 to 15 years.

Both the Senate and the House would reduce the number of acres allowable in the program to 25 million, thus saving \$3 billion over 10 years. The cap now is 32 million acres.

**Rejected Senate amendments:** During its consideration of S 3240 Senate Agriculture Committee leaders refused to take up more than 200 amendments on the Senate floor including an outdoor-related amendment that would have added a stand-alone national forest recreation residence bill (S 1906) to the Farm Bill. The amendment would have established nine tiers of fees beginning at \$500 per year and increasing by \$500 increments to a top fee of \$4,500.

Senate leaders also refused to consider an amendment that would have forbidden the administration from issuing a new wetlands policy that would have require Section 404 permits for non-navigable waters.

## **Court closes Big Cypress ORV routes NPS wants to open**

A federal judge July 11 closed 25 miles of off-road vehicle (ORV) trails in a segment of the Big Cypress National Preserve called the Bear Island Management Unit.

U.S. District Court Judge John E. Steele in the U.S District Court for the Middle District of Florida held that a Feb. 21, 2007, Park Service decision opening the trails violated both the

National Environmental Policy Act and the Endangered Species Act.

Steele said the agency in 2007 illegally relied on a previous 2000 ORV management plan that was backed by an EIS and an Endangered Species Act review. He said the agency should have performed new reviews before issuing the 2007 decision.

In re an environmental review Steele held, "NEPA requires the agency to perform such studies before making a decision with environmental impacts," and not after the decision was made.

In re the Endangered Species Act he held, "FWS's 2007 Amended Opinion appears to be simply a post hoc justification rather than a reasoned scientific judgment."

He concluded his decision: "Simply stated, NPS's decision to convert 1.58 miles of primary trail to secondary trail, to re-open 15.21 miles of primary trail, and 7.49 miles of secondary trails was arbitrary and capricious and is therefore set aside pursuant to 5 U.S.C. § 706(2) (A) (D). Any portions of these trails which remain open must be closed within fourteen days of this Opinion and Order."

So the trails must be closed by Wednesday (July 25).

In 2000 the Park Service closed 23,300 miles of dispersed land in Big Cypress to ORV use after completing the ORV management plan.

The 2000 NPS decision reduced ORV use from 1,200 miles of trails to 400 miles, reduced the cap on numbers of ORVs permitted to enter the preserve from 2,500 to 2,000, reduced access points to 15 (the plaintiffs said NPS could have gone with 30), and established an option for a 60-day closure to ORVs when the Park Service sees fit (compared to no closure before.)

In January 2006 the Big Cypress Sportsmen's Alliance asked the park to change course and add 25 miles of the Big Cypress Bear Island unit for ORV use. That is the target of the lawsuit

before the court in the present case.

In the court fight over the Bear Island unit the federal government asked the court to remand the case without vacating NPS's 2007 decision. The government said vacating the decision would create an administrative burden and cut off public access to the trail system. But the judge rejected those pleas.

Said Jonathan Lovvorn, senior vice president and chief counsel for the Humane Society of the United States, one of the plaintiffs, "Off-road vehicle use has had well-documented and significant adverse impacts on wildlife populations and their habitats. The court's decision will help protect Florida panthers and other vulnerable species from ill-considered decisions that favor recreational activities over resource protection."

## Notes

**NPS expansion studies asked.** At the request of the Obama administration, Sen. Jeff Bingaman (D-N.M.) introduced legislation (S 3399) July 18 that would authorize studies of 15 locations as possible additions to the National Park System. The studies would evaluate possible new park units as well as expansions of existing ones. The sites range from the World War II Peleliu Battlefield in the Pacific Ocean to expansion of the Chattahoochee River National Recreation Area in Georgia. Such studies usually constitute the first step in the addition of land to the National Park System. After the studies are completed Congress of course must approve the designations. In addition to Peleliu and Chattahoochee the study areas include: Kau Coast in Hawaii, Rota in the Northern Mariana Islands, Aleut Relocation sites in Alaska, Japanese American Relocation Camps (several), American Latino Heritage sites in Colorado, Goldfield mining community in Nevada, Hudson River Valley in New York, Norman Studios in Florida, Mobile-Tensaw River Delta in Alabama, Galveston Bay in Texas, Vermejo Park Ranch in New Mexico and Colorado, Buffalo Soldiers commemoration in California, and

Reconstruction of the South.

### **NPS visitation up slightly.**

Visitation in the National Park System is up a modest 2.36 percent in 2012 compared to 2011. NPS reported last week visitation for the year of 166,603,759 or 3,845,950 more than this time in 2011. A number of atypical factors are involved this year and may be skewing the data. For instance the nation is beginning to dig into the Sesquicentennial of the Civil War as major battles in 1862 erupted in Manassas (Second Battle), Antietam and Fredericksburg. In addition the Martin Luther King, Jr. Memorial, which has hosted almost 2.3 million visits this year, was not open in 2011. On the other hand the Washington Monument is closed this year after it was damaged by an earthquake on Aug. 23, 2011. The biggest single drop-off in visitation was registered by the Gateway National Recreation in New York and New Jersey. It has fallen by more than 50 percent from 4,337,555 visits in 2011 at this time to 2,157,861. The Park Service numbers are available at <http://nature.nps.gov/stats/park.cfm>.

**Everglades report looks back.** The Obama administration July 13 patted itself on the back for spending \$1.5 billion for Everglades restoration projects. But in a slender, nine-page status report the administration didn't say how much it would commit to the cleanup in the future. Nor did it say how much the cleanup would cost. When Congress approved the Comprehensive Everglades Restoration Plan in 2000 it estimated the cost of the 60 projects at \$7.8 billion over 30 years. By all accounts the price tag has grown significantly since then. The administration report does say that the feds have spent \$900 million on construction projects to benefit the Everglades.

### **Colorado ski expansion sought.**

The Forest Service said a fortnight ago it will prepare an EIS in anticipation of a rare expansion of a ski resort - Eldora Mountain - in Colorado. The expansion would add 615 acres of National Forest System land and 435 acres of private land to the resort.

As part of the expansion Eldora would extend the ski area's boundary 1,000 feet into territory some local citizens say is valuable habitat for moose, elk, beavers and owls. Eldora is the only ski resort in Boulder Country. The Forest Service has in recent years been reluctant to authorize expansions of ski resorts in Colorado, often because of environmentalist opposition. Eldora would like to increase its peak visitation capacity from 4,250 to 6,580.

**Fenway Park gets registered.** The Park Service July 7 said it has listed the Fenway Park baseball stadium in Boston in the National Register of Historic Places. The park is 100 years old and has been home to the Boston Red Sox since 1912. Said Red Sox President Larry Lucchino, "John Henry, Tom Werner, and I, on behalf of our partners, made a commitment to preserve Fenway Park more than a decade ago, and we are pleased that as a result of that renovation effort, Fenway Park will now be counted among America's most treasured historical places, ensuring that it is protected and enjoyed by future generations." Ten years ago the owners were considering scrapping Fenway and building a new park. NPS says the National Register of Historic Places is the official list of "places worthy of preservation."

**Boxer seeks Berryessa NCA.** Sen. Barbara Boxer (D-Calif.) introduced legislation (S 3375) July 11 that would designate a 319,000-acre national conservation area in northern California managed by three different federal agencies. The Berryessa National Conservation Area (NCA) would be operated cooperatively by the Bureau of Land Management, the Bureau of Reclamation and the Forest Service. All land in the proposed bill is already federal. Boxer said the designation of the NCA could provide a recreation and tourism attraction for Lake, Mendocino, Napa and Yolo Counties. "This region is one of the most biologically diverse, yet least known regions of California. By raising its profile, an NCA designation will boost tourism and increase business opportunities in the region's gateway communities," Boxer said. Rep. Mike Thompson (D-Calif.) has

introduced a counterpart House bill (HR 5545).

**Duck numbers up, habitat down.**

A preliminary estimate of the Fish and Wildlife Service (FWS) puts the number of ducks in breeding habitat at a record high. FWS says its initial spring Waterfowl Breeding Population and Habitat Survey places the number at 48.6 million, or a big 43 percent above the long-term average. It's also 3 million birds higher than last year. For mallard ducks alone the count is 10.6 million, or a 39 percent increase over the average of 7.6 million. At the same time the FWS report warns that breeding habitat is in decline. FWS said the number of ponds in the north-central United States was 49 percent below last year, 1.7 million compared to 3.2 million. Of course the middle of the country is undergoing a ferocious drought, a bad omen for next year. The FWS report is available at: <http://www.fws.gov/migratorybirds>.

**Battlefield grants sent out.** The Park Service a fortnight ago announced that it has distributed more than \$1.3 million to help protect 75 battlefields nationwide. The money was sent to nonprofits, universities and local governments in 17 states. The grants, as much as \$80,000, will be used to protect battlefields from numerous wars including the Pequot War, King William's War, the Revolutionary War, War of 1812, Civil War, World War II and various Indian Wars. The money comes from appropriations for the American Battlefield Protection Program.

**DoI, O&G industry fight about jobs.**

The Interior Department in a new report July 9 emphasized the role of recreation in job creation on the public lands. The department said recreation visits to Interior Department lands in 2011 supported more than 400,000 jobs of the 2 million jobs the public lands support. But the Western Energy Alliance said the department gives short shrift to the role of oil and gas development on the public lands. The alliance said that oil and gas development alone supported 62 percent of public lands jobs in 2011, or 1,339,956. That's three times the recreation jobs. Secretary of Interior

Ken Salazar preferred to give recreation equal billing with energy development. "President Obama's focus on expanding responsible domestic energy development is working alongside our 21st century conservation, travel and tourism agendas to reinvigorate local communities - particularly in rural America," he said. The department report is at <http://www.doi.gov/americasgreatoutdoors/loader.cfm?csModule=security/getfile&pageid=308931>.

## Boxscore of Legislation

### Appropriations Fiscal 2013 (Interior).

HR 6091 (Simpson). House committee approved June 28. Panel would cut sharply virtually all outdoor programs.

### Appropriations FY 2013 (Energy, Water)

HR 5325 (Frelinghuysen), S 2465 (Feinstein). House approved June 6. Senate committee approved April 26.

### Appropriations FY 2013 (Transportation)

HR 5972 (Latham), (S 2322 (Murray). Senate committee approved April 19. House committee approved June 19.

### Appropriations FY 2013 (Agriculture)

HR 5973 (Kingston), (S 2375 (Kohl). Senate committee approved April 26. House committee approved June 19.

### Congressional Budget Fiscal 2013.

House Budget Committee approved March 21. No Senate action. House would reduce natural resources spending significantly.

### Appropriations Fiscal 2012 (Interior, Etc.)

HR 2584 (Simpson). President signed into law Dec. 23, 2011, as PL 112-74. Would roughly maintain most outdoor programs and agency budgets at fiscal 2011 levels.

### Surface Transportation.

HR 4348 (Mica). President Obama signed into law July 6 as PL 112-141. Congress passed two-year bill as Senate requested. No LWCF money. Big cuts for rec programs.

### LWCF (Guaranteed Funding)

S 1265 (Bingaman). Bingaman introduced June 23, 2011. Would guarantee full funding of LWCF each year.

### LWCF (Fed Lands Access)

S 901 (Tester). Tester introduced May 5, 2011. Would allocate 1.5 percent of LWCF for access to fed lands for rec.

### Urban Parks

HR 709 (Sires). Sires introduced Feb. 15, 2011. Would provide \$450 million per year to rehabilitate urban parks.

### Roadless Areas: No

HR 1581 (McCarthy), S 1087 (Barrasso). McCarthy introduced April 15, 2011. Barrasso introduced May 26, 2011. Would reverse Clinton roadless rule, block Salazar 'wild lands' policy, release FS and BLM roadless areas.

### Roadless Areas: Yes

HR 3465 (Inslee), S 1891 (Cantwell). Inslee introduced Dec. 19, 2011. Cantwell introduced Nov. 17, 2011. Would codify Clinton roadless rule.

### Hunting and Fishing Access

HR 4089 (Jeff Miller), S 2066 (Murkowski). Murkowski introduced February 2. House approved HR 4089 April 17. House bill would not only keep public lands open to hunting, as well as require state approval of national monuments.

### National Monuments

HR 302 (Foxx), S 407 (Crapo), numerous other House bills. House hearing Sept. 13, 2011. Foxx would require state approval of any national monument under Antiquities Act. Herger, Crapo would require Hill approval within two years.

### California Desert Monument

S 138 (Feinstein). Feinstein introduced Jan. 25, 2011. Would designate a Mojave National Monument and protect 1.6 million acres of desert.

### NPS Air Tour Policy

HR 658 (Mica), S 223 (Rockefeller). President Obama signed into law February 14 as PL 112-95. Revises NPS air tour policy, authorizes agreements without overall plan.

### Glacier Park Protection

S 233 (Baucus). Senate hearing May 25, 2011. Would withdraw from mining 300,000 acres of national forest.