

Federal Parks & Recreation

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House, Senate have month to complete approps bills

Under direction of their leaders House and Senate appropriators have the almost impossible job of filling in by the end of this month the details of 12 appropriations bills. Fiscal year 2013 begins October 1.

Congressional leaders say the bills will apply just to the first six months of fiscal 2013, or until March 1. Crucially, for those six months House Majority Leader John Boehner (R-Ohio) and Senate Majority Leader Harry Reid (D-Nev.) have agreed to cap spending based on a budget agreement of last summer (PL 112-25 of Aug. 2, 2011).

That is crucial because it is \$19 billion more than a budget of \$1.028 trillion that the House had established this spring.

Translated, the \$1.047 trillion cap probably means park and recreation spending will roughly match fiscal 2012 levels. "I think in the end they likely will gravitate toward the Senate version of a budget for an Interior bill," said Alan Rowsome, who handles budget issues for The Wilderness Society. "The question is what happens to the riders? I expect the Senate will accept some of the House riders, but I expect spending to be nearer the fiscal '12 numbers, or a flat line."

But the House and Senate have a long way to go to get there for the Interior and Related Agencies spending bill. The House Appropriations Committee approved its version (HR 6091) on June 28, but with a \$1.2 billion reduction in fiscal 2012 spending levels.

However, the Senate Appropriations Committee has adopted a spending ceiling for the Interior bill nearer fiscal 2012

levels, or \$29.662 billion compared to \$29.2 billion in fiscal 2012.

The Senate Appropriations Committee has done nothing publicly on an Interior bill yet, but is expected to float a staff-generated draft shortly that will serve as a negotiating position with the House. A committee spokeswoman did say this week that "staff discussions are ongoing."

The other outdoor-related spending bills are much further along. 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.

The House approved \$32.1 billion for an **Energy and Water** spending bill (HR 5325) 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 Appropriations Committee approved its version of a bill (S 2465) April 26.

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.

Boehner and Reid July 31 agreed to fund federal agencies for the first six months of fiscal year 2013 at roughly fiscal 2012 levels. To implement the agreement Congress is expected to produce one big continuing resolution that will provide money for all agencies and programs, a dozen bills in all.

More immediately, Senate and House appropriations committees are expected to negotiate the details of individual bills. As the Senate committee staff member acknowledged, those discussions are already underway.

Even if Congress strikes a final

deal on the first six months of fiscal 2013, looming in the background is a budget "cliff." Per the budget agreement of last summer Congress must come up with spending reductions of \$1.2 trillion by Jan. 2, 2013. Failure to meet that deadline could blow up the six-month appropriations agreement announced between Congressional leaders.

The budget cliff cuts would be spread over ten years, beginning in fiscal 2013. Lobbyists have estimated the cuts would lead to an immediate reduction in park and rec spending of at least five percent.

However, the game plan calls for the House and Senate to try to head off those reductions by reaching agreement on overall multi-year spending in a lame-duck session in November and December.

Boehner and Reid said they struck their six-month deal in order to take the fiscal 2013 appropriations bills off the table during the run-up to the November 6 elections.

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 committee 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 committee bill that the Senate may be persuaded to accept in return for higher spending levels:

* *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 Republicans and Democrats in other bills.

Y'stone to extend snowmobile rule, reconsult public on new

In the face of stiff criticism from Park Service retirees and environmentalists Yellowstone National Park will extend an existing snowmobile policy through the upcoming winter.

And, as the retirees requested, the park will take public comment on a proposed new policy until October 4.

Park Service retirees and environmentalist are attacking a June agency plan to base snowmobile use in Yellowstone National Park on "events" of up to 110 per day. The events would be divided up among snowmobiles, snowcoaches, commercial guides and noncommercial guides.

In a draft plan/supplemental EIS the park said it would define an event as one snowcoach visit or seven snowmobiles. But the retirees said the draft EIS did not explain how it came up with that formula.

"The DSEIS states that the preferred alternative is 'based on' the concept that the impact to Park resources from 7 snowmobiles and 1

snowcoach 'are comparable to each other,'" the retirees wrote Yellowstone. "Yet the DSEIS provides neither data nor discussion to back this up."

"Since publication of the DSEIS, NPS has acknowledged that vehicle tests performed in Yellowstone earlier this year produced data dramatically at odds with the 7 to 1 impact ratio upon which the preferred alternative is based," said the retirees.

A week later on August 15 the retirees complained to NPS that the park did not make available key scientific analyses until *after* the draft EIS was published June 29.

Said the retirees in a letter signed by Maureen Finnerty, chair of the executive council, "NPS made all of these studies available after the release of the DSEIS, with the most recent posting (Modeling Noise) occurring on August 7. The result is a compromised public review opportunity that is inconsistent with the policy and requirements of the National Environmental Policy Act (NEPA)."

Finnerty continued, "These requirements cannot be satisfied when important information and studies that were developed for, and relied upon by, NPS prior to the release of the DSEIS are not made available to the public until a significant portion of the NEPA comment period has expired."

The retirees asked for an extension of the public comment period (which NPS granted) and acknowledged that the Park Service was under a deadline of December 15 to complete a final rule. But, they said, the agency could always extend the old law for a year (which NPS did).

Besides, the draft plan/EIS does not anticipate implementing an events rule until the winter of 2014-2015. That is, the park already planned to use the existing rule for the upcoming 2012-2013 season and for the 2013-2014 season.

So on September 4 the Park Service took two steps in the *Federal Register*.

One, it formally proposed a regulation to extend the existing snowmobile rule through this winter, which the park was already on track to do. But this provides a discrete rule to do it.

Two, the park reopened the comment period on the proposed June 29 regulation for 30 days until October 4. For more information on the plan go to <http://parkplanning.nps.gov/yell>. Click on the first item on the list titled 2012 Supplemental Winter Use Plan EIS.

Unlike the Park Service retirees, Wyoming Gov. Matt Mead (R) praised the Yellowstone proposal.

He said in a letter to Yellowstone Superintendent Daniel Wenk, "Alternative 4 best advances the purposes of the Act and is the optimum choice for managing over-snow vehicle use in Yellowstone. This Alternative balances protection of Park resources and public access to Yellowstone. I support Alternative 4. . ."

Last winter (2011-2012) the park used the existing rule to authorize up to 318 snowmobile visitors and 78 snowcoaches per day. That compares with an earlier Obama administration proposal that would have authorized variable daily limits on snowmobile use with as many as 330 on peak days and as few as 110 on slow days.

In the June 29 draft plan/SEIS the Park Service offered four alternatives. Alternative One would bar snowmobiles in Yellowstone. Alternative Two would extend last winter's limits (318 snowmobiles and 78 snowcoaches). Alternative Three would begin with last winter's limits and then transition to all snowcoaches over three winters.

Alternative Four is the preferred alternative that ties snowmobile and snowcoach use to "events." The system is complex but it would begin by defining an event as one snowcoach or one group of snowmobiles of up to seven machines. The park would cap any snowmobile group at 10 machines.

Explained the draft plan/EIS, "Alternative 4 would allow for a total

of 110 transportation events each day, which would be distributed among the providers via concessions contracts. Operators would decide whether to use their daily allocation for snowmobiles or snowcoaches, or a mix of both, but no more than 50 daily transportation events parkwide could come from snowmobiles."

The draft plan/EIS continues, "Under alternative 4, all snowmobile use would be guided. Most would be commercially guided, but some noncommercially guided use would be allowed."

Agencies may have to borrow rec money to fight big fires

The Forest Service and the Interior Department are about to run out of fire suppression money. They will have to return to the much-criticized practice of borrowing funds from other programs, such as recreation, to fight fires.

Further, given the federal budget crisis, Congress may be neither willing nor able to find money to compensate those other programs in future appropriations.

Lenise Lago, budget director for the Forest Service, confirmed her agency's shortfall. "The Forest Service will have to borrow funds from other programs - we are in the process of transferring \$200 million from other appropriations and have a strategy to transfer up to \$200 million more in \$100 million increments if it should be required," she told *FPR*. So the agency may have to borrow as much as \$400 million.

The Department of Interior hasn't spent all its fiscal year 2012 fire-fighting money yet but expects to. "We're running low on suppression funds," said a Bureau of Land Management (BLM) spokesman at the National Interagency Fire Center. "We are tapping into FLAME money and looking to transfer money from other programs." The spokesman said Interior may have to borrow as much as \$91.8 million from the FLAME account.

The National Association of Forest Service Retirees keeps a close eye on the agency. George Leonard, a member of the association, is perturbed.

The Forest Service "will have to transfer money from other programs to cover fire fighting expenses through September," he said. "This will have serious adverse impacts on other agency programs. This was not supposed to happen with the FLAME Account, but this year the Congress withdrew carryover funds in the Account."

Congress said in 2009 it had put an end to such borrowing when it established an emergency fire-fighting account called FLAME, as in Federal Land Assistance Management and Enhancement Act (FLAME). Congress also said that when any particular fiscal year FLAME money was unspent the remainder should be applied to the next year.

But when Congress wrote a fiscal year 2012 appropriations law, it did not apply \$200 million in leftover fiscal 2011 money to fire suppression; instead it used the money to balance the federal budget. Said Lago, "Had the funds not been rescinded the Forest Service would have retained them and they would be available for firefighting this year."

Still, the \$200 million wouldn't have covered all of the Forest Service's needs. "We are prepared to transfer up to \$400 million but we hope weather conditions and our fire fighters keep that from becoming necessary," Lago said.

As fire seasons worsened in the last two decades the Forest Service and the Interior Department borrowed money from operations, maintenance and other programs to pay fire-fighting costs. Congress usually repaid some of that money in the next year's appropriations but the damage had already been done to the other programs by then.

To remedy that Congress authorized the FLAME Act as a rider to a fiscal year 2010 public lands appropriations law (PL 111-88 of Oct. 30, 2009.) It not only authorized use of emergency funds for fiscal 2010, it also extended the program into future years. However, FLAME money

is now subject to annual appropriations.

In a separate attack on wildfires the House Natural Resources Committee August 1 approved legislation (HR 6089) that would authorize governors to designate emergency hazardous fuels reduction projects in high-risk federal areas. Most committee Democrats objected. The legislation would apply just to Forest Service and BLM lands.

Still waiting in the committee's wings is an even more contentious fire control bill (HR 5744) from Rep. Paul A. Gosar (R-Ariz.) and 32 cosponsors.

It would establish firm deadlines for action on fuel reduction projects in at-risk forests; would require a final decision on a project within 60 days of first notice; and would require completion of environmental documentation within 30 days of first notice.

The Gosar bill would also apply just to Forest Service and BLM lands.

On the other side of the Hill the Senate Energy Committee addressed the fire issue in August with two hearings in the West - one in Colorado on the difficult season that state has had and one in New Mexico on the impact of climate change on fires.

At the August 17 climate hearing in New Mexico the U.S. Geological Survey described global warming as a major contributing factor to fires in the West.

"Recent climate trends of warming and drying conditions have corresponded to major increases in the extent and severity of forest die-off in the Southwest," said Dr. Craig D. Allen, research ecologist for USGS. "The close linkages among patterns of climate, tree growth and mortality, and fire are particularly well-documented in the scientific literature for this region, using multiple lines of strong evidence that extend back many thousands of years."

As of late this week the nation had in 2012 been hit by more than 45,000 wild fires on almost 8 million acres.

Last year at this time it was more fires, 55,600, but fewer acres, just over 7.5 million. The ten-year average is 57,665 fires and just under 6.2 million acres.

Party platforms miles apart on approach to outdoor issues

With one major exception, the platform approved by the Republican Party Convention last week does not directly address mainline park and rec issues.

The exception is hunting, fishing and recreational shooting. The party says those activities "should be permitted on all appropriate lands." That, of course, is a position that the Democratic Party could also endorse.

In contrast to the Republicans the Democratic Party platform gives park and rec policy a prominent seat at the table. "Democrats will continue to work with local communities to conserve our publicly-owned lands and dramatically expand investments in conserving and restoring forests, grasslands, and wetlands across America for generations to come," the platform says.

The national parks are also singled out. "We will ensure that our National Parks are protected while expanding opportunities for Americans to visit and experience these national treasures," the Democratic Party platform says.

Indirectly, the Republican platform would impact outdoor recreation by calling for "reconsideration" of the possible transfer of federal lands to private interests. "Experience has shown that, in caring for the land and water, private ownership has been our best guarantee of conscientious stewardship, while the worst instances of environmental degradation have occurred under government control," say the Republicans.

They added, "In this context, Congress should reconsider whether parts of the federal government's enormous landholdings and control of water in the West could be better used for ranching,

mining, or forestry through private ownership."

Until that happens, the platform recommends the Forest Service maximize economic development of public land. "The Forest Service should be charged to use these resources to the best economic potential for the nation," it says.

With the November 6 election just two months away the public is beginning to focus on the substantive recommendations of the two major political parties.

Armed with the results of a new national poll on the national parks, supporters petitioned the parties to back the parks. The National Parks Conservation Association and the National Park Hospitality Association distributed the poll, which demonstrated the parks are given a high priority by the public, to the party conventions.

The poll is one piece of a much larger campaign by the Park Service, its allies and, perhaps, Congress to prepare for the Centennial of the National Park System in 2016.

As we reported in the last issues of *FPR*, the record on park and rec issues of Republican Presidential nominee Mitt Romney and Vice Presidential nominee Paul Ryan (R-Mich.) is slender.

Ryan has provided the most significant clues as author of a House-passed fiscal year 2013 Congressional budget that would sharply reduce natural resources spending. His budget would slash natural resource money by \$3.5 billion, reducing it from \$36.8 billion in fiscal 2012 to \$33.3 billion.

In addition a Ryan position paper infers that the Obama administration has spent too much money on natural resources. It says that natural resources spending has increased by 20.4 percent during the Obama administration and concludes, "The House-passed budget recognizes the importance of these activities, which includes overseeing water resources, conservation, land management, and recreational resources.

However, bigger government has not equated to better government, and it has only led to duplication, waste, and mismanagement."

An Obama administration has a four-year record. The administration's fiscal 2013 budget provides a summary of the President's outdoor policy - substantial funding for conservation spending such as for the Land and Water Conservation Fund and state wildlife grants, substantial funding for federal land management agencies, and an overall emphasis on protecting natural resources versus use of those resources.

Both Republicans and Democrats have actively promoted a hunting policy that would declare all federal areas open-unless-closed. The House approved a bill (HR 4089) April 17 by a strong 274-to-146 vote to do just that.

Senate leaders June 18 refused to consider a similar amendment during consideration of a farm bill. The leaders said it was not germane. The amendment would have designated public lands as open for hunting and fishing unless closed, like the House bill. Sens. Lisa Murkowski (R-Alaska) and Joe Manchin III (D-W.Va.) sponsored it.

The Republican platform does not mention national parks but it does mention recreation in the context of federal land hunting. It says "(P)ublic access to public lands for recreational activities such as hunting, fishing, and recreational shooting should be permitted on all appropriate federal lands."

The Democratic platform has a similar mention. "We will preserve landscapes and ecosystems and open more lands and waters for hunting, fishing, and recreation," it says.

Summed up one friend of the national parks and outdoor recreation, "We're not excited about what the Republicans are telling us in the platform. But the platform is not what matters. What the Presidential candidate says matters." And candidate Romney has yet to address outdoor

issues, although he is expected to.

Just one state - Florida - takes a pass on rec trails

Florida is the only state to choose not to share in the \$85 million in Recreational Trails Program (RTP) money available in this fiscal year.

Under the new surface transportation law, Moving Ahead for Progress in the 21st Century (MAP-21), the states had until September 1 to choose not to participate in the program.

The RTP money Florida turned down will not go back into the RTP but will be made available for other transportation alternative purposes.

A number of other states had reportedly intended to opt out of RTP but were headed off by a campaign conducted by a broad range of interest groups, including the Rails-to-Trails Conservancy, American Trails, Americans for Responsible Recreational Access (ARRA), the American Recreation Coalition (ARC) and the BlueRibbon Coalition.

Said ARC President Derrick Crandall, "The trails community has been very aggressive. I think we have switched some preliminary decisions. I think it is fair to say that four to five states had preliminarily decided not to participate but reversed course."

"We thought New Mexico was lost but now it is expected to participate," he said. "This was a very, very strong showing by the trails community."

Echoed Larry Smith, executive director of ARRA just before the deadline, "As far as I know, Florida is the only state to opt out. We had a couple of others that said that they were going to do so, but in the last 24 hours they have reversed their decision."

Like Crandall, Smith gave much credit to recreationists. "The recreation community, both motorized and

nonmotorized, are working this hard and I think they had an impact in getting these reversals," he said.

Here's how Congress designed the transportation alternatives program for fiscal 2012 and fiscal 2013, according to the Federal Highway Administration: "MAP-21 establishes a new program to provide for a variety of alternative transportation projects that were previously eligible activities under separately funded programs. This program is funded at a level equal to two percent of the total of all MAP-21 authorized Federal-aid highway and highway research funds, with the amount for each State set aside from the State's formula apportionments). Unless a State opts out, it must use a specified portion of its TA funds for recreational trails projects."

MAP-21 (PL 112-141 of July 6) guaranteed \$85 million per year for the RTP program from the transportation alternatives pot. A number of other outdoor programs including Safe-Routes-to-School are competing for the same dollars. And in some states, such as Maine, as much as 40 percent of transportation alternatives money could go to RTP, providing an incentive for Maine's governor to opt out because little money would be left for other activities.

In other states, such as California, the formula is not so restrictive. Of California's estimated \$75 million transportation alternative allocation, only \$6 million would be confined to RTP.

In the broader recreation picture the highway law, called MAP-21, does NOT include \$700 million per year for the Land and Water Conservation Fund for the next two years. A Senate-passed bill that was before the conferees would have provided the money.

In a second blow MAP-21 reduces spending substantially for transportation enhancements and Safe Routes to Schools programs. It lumped them into one new line item with the Recreational Trails Program and provided \$760 million per year for the line item.

That's about a \$200 million decrease.

In addition the programs must compete with each other and with other programs for the \$760 million.

In a third blow, after supporting a Transit in the Parks programs for seven years to the tune of \$165 million, Congress put up no money for the program in PL 112-141. The program still has \$13.5 million left for this fiscal year (2012), but for fiscal 2013, beginning October 1, the spigot is off.

Point Reyes oyster farm EIS is criticized; a new EIS?

Sen. Diane Feinstein (D-Calif.) once again August 31 urged the Interior Department to extend a permit for an oyster farm in Point Reyes National Seashore.

At the same time she again attacked the Park Service for not using good science in a draft EIS that assesses the impacts of the oyster farm. For her criticism she drew this time around on a new report from the National Research Council that criticized NPS for basing its draft EIS on insufficient data.

Said Feinstein in a statement supplied to *FPR*, "The 53-page study released by the National Research Council offers further proof that the National Park Service is using flawed science to reach a biased, unfair permit decision for the Drakes Bay Oyster Company."

She concluded, "I once again urge Secretary Salazar to look beyond the flawed science and renew the oyster farm's lease."

The National Research Council report and Feinstein's statement put pressure on the Park Service to write a new EIS, or at least prepare a supplement to the draft EIS.

The Park Service this week said that it was considering the report and is proceeding under the assumption it will complete the EIS this fall.

"The NPS is working to review all the relevant scientific and technical information, including the NRC report, and expects to issue a final EIS this fall," said David Barna, chief spokesman for NPS.

The great Point Reyes oyster controversy erupted most recently Sept. 26, 2011, when NPS completed the draft EIS on the permissibility of extending a 40 year-old special use permit to the Drakes Bay Oyster Company to take oysters from the seashore.

Although the draft EIS did not pick a preferred alternative, Feinstein criticized the Park Service for excluding evidence that she says proves the oyster farm is harmless. Feinstein and the permittee believe that the Park Service wants the area designated as wilderness.

The Drakes Bay Oyster Company has operated an oyster farm and cannery within Point Reyes for more than 60 years, providing 30 jobs to the local economy. The company's permit to operate within the park is scheduled to expire on November 30.

The National Research Council prepared the analysis of the Park Service EIS at the request of the agency. Thomas Malone, chair of the committee that wrote the report, is a professor emeritus at the University of Maryland Center for Environmental Science.

He concluded, "There is little scientific literature on Drakes Estero, and research on the potential impacts that oyster farming has on this particular ecosystem is even sparser. Trying to assess environmental impacts based on a limited amount of information would be similar, for example, to estimating rainfall for an entire year when rainfall records are only available for March."

Eight resource impacts were analyzed in the draft EIS. Said the National Research Council panel, "Of the eight resource categories, the committee judged that the projected impact levels for seven had moderate to high levels

of uncertainty and, for many of those an equally reasonable alternate conclusion of a lower impact intensity could be reached based on the available data and information."

The National Research Council committee said it did not conduct an independent analysis of the impacts of the oyster farm, but simply analyzed the draft EIS.

The National Parks Conservation Association (NPCA) stood up for Point Reyes. Said NPCA's Pacific Region Associate Director Neal Desai, "We are pleased with the National Research Council's report, which backs up our belief that the National Park Service generally used the best available data when evaluating the future of Drakes Estero. We continue to stand by the National Park Service's environmentally preferred option, to sunset the oyster operation's permit at the end of its term as long intended, and protect the West Coast's only marine wilderness area."

That's not how Kevin Lunny, of the Lunny family that owns Drakes Bay Oyster Farm, sees it. "The National Academy, having finished its second review since 2009, concluded that NPS did not have data or science to support its claims (again)," he said. "We now know that NPS just plain 'made it up' to drive us out of business. NPS Director Jarvis owes our community an explanation and an apology. The Secretary should now move to approve our permit."

In 2009 Feinstein, at the time chair of the Senate subcommittee on Interior Appropriations, inserted in a fiscal year 2010 appropriations law (PL 111-88 of Oct. 30, 2009) a rider giving NPS discretion to renew the existing permit for 10 years. While the provision is discretionary, Feinstein has made it clear the permit should be issued for another 10 years. And NPS is undoubtedly hesitant to anger the influential appropriator.

The hard feelings ramped up April 24 when a critic of the draft EIS on the oyster farm filed a scientific misconduct complaint against the Park Service.

The scientist, Dr. Corey Goodman, charged the Park Service with misuse of noise data from other sites. He is a professor and biotech entrepreneur. He taught biology at Stanford University and University of California Berkeley for 25 years. He now serves on the faculty of U.C. San Francisco

Said Goodman of the most recent National Research Council report, "The accountability for spending millions of dollars of taxpayer money rests at the top. It is time to ask why NPS leadership has been so obsessed with removing the oyster farm from Drakes Estero that they have allowed their agency to misuse science."

Hantavirus closes Yosemite camping area, kills two

Yosemite National Park has not set a date yet for reopening its signature tent cabins in Curry Village that are believed to be the source of the hantavirus pulmonary disease in five people.

The park is also scouring the rest of the park to prevent the spread of Hantavirus from infected rodents. Altogether six visitors to Yosemite contracted the virus (five in the tent cabins) and one elsewhere in the park. Two of the six died.

Yosemite spokesman Scott Gediman told us the only camping area closed right now is the one containing the 91 tent cabins. "We don't know when it will be opened, or if it will ever be reopened," he said.

The outbreak struck the six individuals in June of this year. Four had stayed in the 91 canvas-sided cabins managed by the concessioner DNC Parks and Resorts, an operation of the Delaware North Companies Parks & Resorts. The company manages an additional 317 cabins in Curry Village.

On August 28 the Park Service began contacting more than 3,000 registered parties who had stayed in the signature cabins between June 10 and August 14. The Center for Disease

Control and Prevention said about 10,000 people stayed in the cabins during that period.

An epidemiologist with the Park Service Office of Public Health, Dr. Danielle Buttke, said, "The park and public health officials are contacting visitors and raising awareness in the medical community to increase the chances that any additional cases that may be incubating will be successfully diagnosed and treated early."

Once the virus was identified the park began a major cleanup that consisted of disinfecting the cabins, closing gaps in walls and cleaning and inspecting the rest of the park.

Gediman said that Curry Village contains four types of cabins - (1) wooden cabins with bath, (2) wooden cabins without bath, (3) tent cabins with wooden floors and canvas sides and (4) tent cabins with insulated walls. The infection struck only visitors in the last category.

Hantavirus is usually spread by the droppings, urine or saliva of rodents such as mice. The virus can be stirred up from dust and be ingested. The incubation period is usually two-to-four weeks and the symptoms begin with the usual symptoms of flu - fever, headache and muscle ache. In the worst cases it closes down lungs, resulting in death.

The Center for Disease Control has identified only 587 cases of the Hantavirus nationwide since 1993 and one-third of those have been fatal.

According to the *Associated Press* and the *Los Angeles Times*, the California Department of Public Health several times over the last five years advised the park that it should increase rodent inspections and keep the rodents out of areas where people sleep. The California department said Yosemite had begun to implement its recommendations, but also said the park is so vast perfection is difficult.

DNC Parks and Resorts is a major player in the Park Service concessions

game. It manages many facilities at Yosemite, Grand Canyon National Park and Sequoia National Park.

Major new road proposals target Manassas Battlefield

A tenth battle of Manassas has broken out in the form of a proposal by the Virginia Department of Transportation to build a major parkway through a corner of the Manassas National Battlefield Park.

The 12 mile-long, six-lane wide road would touch the battlefield park's western boundary and hook up with a second new proposed highway that would arc around the eastern and northern boundaries. The second park bypass would be nine miles long.

Park protection advocates are up in arms, so-to-speak, about the route planned for the major road called the Tri-County Parkway. They say it would increase commuter traffic through the park, rather than diminish it.

"Commuter traffic through Manassas National Battlefield jeopardizes both the park and its 650,000 annual visitors," said Joy Oakes, senior regional director for the National Parks Conservation Association. "Diverting commuter traffic out of the national park is a top priority; however, VDOT's plan shows that the Tri-County Parkway would make traffic in the park even worse."

Draft EISs on the Tri-County Parkway and the Manassas Battlefield Bypass were first published in 2005 but were stymied until last year because the local Council of Governments had not included them on their construction agenda. They are now listed. Although construction money has not been approved, engineering money is available.

Park Superintendent Ed Clark told *FPR* the park and the critics are essentially on the same side; they just disagree on the details of the routes. He said the proposed roads are needed to keep commuters and interstate traffic away from the battlefields.

"In fact the roads themselves are historical because they formed the battle lines," he said. "The traffic has become so heavy that it is affecting the visitor experience and degrading the battlefield's resources."

"We're looking at getting cars out of many areas in the heart of the park and removing traffic to the perimeter outside power lines," he said. "Those are still valuable parts of the park but they are not where the fighting actually took place." He said only four or five acres would be affected by a right-of-way.

The Manassas National Battlefield Park hosted two major Civil War battles in July 1861 and in August 1862. Since then residential development has closed in on the park touching off a succession of new and different kinds of battles.

For instance in January 1988 the Hazel/Peterson Companies proposed the construction of a 1.2 million square-foot shopping mall adjacent to the park. Congress then passed a bill that eventually paid the developer more than \$130 million to buy the lands.

Five years later in 1993 the Walt Disney Companies proposed a theme park - Disney's America - three and one-half miles west of the battlefield park. After a ferocious national debate with historians and preservationists pitted against county and state officials, Disney withdrew its proposal in September 1994.

This time around it's a battle over highways to provide connections to the hundreds of thousands of suburbanites that have thronged to Manassas County, Fairfax County and Loudon County. The battlefield park sits right in the middle of the development with Interstates and major parkways to the south and north.

A draft EIS says the preferred route would cut through 2.9 acres of the battlefield park. Perhaps as troubling to the promoters, it would pass through the east end of the Bull Run Regional Park, which is operated by local communities.

That is troubling because it, along with the impacts on the battlefield park, has triggered a review under Section 4(f) of highway law that bars the use of publicly-owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites for highways. The only exceptions are if there are no feasible alternatives or all possible planning is conducted.

Acknowledged the Virginia Department of Transportation in its draft EIS, "However, FHWA (Federal Highway Administration) may not be able to support this alternative because of its impacts to public parks and historic sites given the legal standard established by Section 4(f) of the Department of Transportation Act of 1966."

Superintendent Clark told us that a Section 4(f) review "has made up the bulk of our consideration." He said the review has proceeded to the Assistant Secretary of Interior for Fish and Wildlife and Parks but has not been signed off on yet.

The separate Battlefield Bypass road took a step forward August 27 when the Virginia Department of Transportation and the Park Service reportedly reached agreement on it. According to press reports the \$305 million project (without funds yet) would be constructed by 2035. The bypass would extend for nine miles.

Hastings continues to pound Obama on Ocean Policy

House Republicans last month continued their campaign to head off implementation of President Obama's National Ocean Policy.

House Natural Resources Committee Chairman Doc Hastings (R-Wash.) wrote the cochairs of the National Ocean Council to demand answers to Hastings's questions about who developed the policy, what implementation would cost and the possible diversion of money from other programs for implementation.

In the fourth letter he has sent the administration on the subject Hastings on August 15 said, "Especially troubling is the lack of transparency about how the National Ocean Policy will impact the Federal budget. Although agencies were directed to explain in their FY 2013 budget submissions to the White House how they plan to direct resources to implement the National Ocean Policy, none of the President's budget requests submitted to Congress actually appeared to identify the specific appropriation amounts that would be needed to implement the National Ocean Policy."

Hastings's office this week said he has not received a reply yet to his most recent letter.

President Obama established his National Ocean Policy on July 19, 2010. The administration formally proposed implementation of the policy January 12. The policy is designed to coordinate management of the nation's oceans, coasts, and Great Lakes. The administration said in January it intended to publish a final implementation plan in the spring (of 2012) but that deadline has come and gone.

At issue for Republicans in the administration's National Ocean Policy is a concept named Marine Spatial Planning. Hastings and other Republicans characterize that as "ocean zoning."

An administration task force report backing the policy says recreation is a central part of spatial planning which "identifies areas most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, and preserve critical ecosystem services to meet economic, environmental, security, and social objectives."

Republican critics contend the plan constitutes top-down federal interference with the management of recreation on the nation's oceans and coasts.

To block the implementation of the policy the House Appropriations Committee June 27 backed by a 27-to-20 margin a fiscal year 2013 appropriations bill provision that would cut off money. The provision is included in a fiscal 2013 spending bill (HR 6091) for the Interior Department and Related Agencies.

Rep. Mike Simpson (R-Idaho), principal author of the spending bill before the committee, said the measure would only cut off \$2 million. Simpson said he included the provision in the bill at the behest of Hastings.

In his most recent letter to the ocean council cochairs - Council on Environmental Quality Chair Nancy Sutley and the White House Director of the Office of Science John P. Holdren - Hastings reiterated his requests for information in these areas:

Budget impacts: Hastings complained: "It is unclear whether agencies will be diverting resources from Congressionally mandated priorities and programs to fund the National Ocean Policy programs and regulations."

Who worked on: Hastings said the administration has not told him what interest groups helped draft implementation plans, what federal officials worked on it and what outside contractors or grantees were involved.

Regulatory authority: Hastings acknowledged that the administration has told him that the ocean initiative was constitutional and complied with environmental laws, but he said that is not enough. "However, in none of the laws cited did Congress authorize the President to establish this new federal bureaucracy to manage ocean activities or recourses or to create new regulations and policies that could close off parts of the ocean and stifle American job creation," he said.

Notes

Landmark NPS science report out. A committee of scientists August 24 recommended a sweeping science policy

for the national parks as a major plank in the run-up to the National Park System's 100th anniversary. The committee's brief report follows up on a famed 1963 Leopold Report written by A. Starker Leopold that basically established the Park Service approach to science. The new report, *Revisiting Leopold: Resource Stewardship in the National Parks*, in a difficult-to-understand conclusion recommends, "The overarching goal of NPS resource management should be to steward NPS resources for continuous change that is not yet fully understood, in order to preserve ecological integrity and cultural and historical authenticity, provide visitors with transformative experiences, and form the core of a national conservation land- and seascape." The report is one of 36 actions in a game plan called *A Call to Action* prepared by NPS for the National Park System Centennial in 2016. The Park Service will now discuss the science report with its employees, with scientists and with other land managers. The National Park Foundation sponsored the 11-member committee, which was chaired by the former director of the National Science Foundation Rita Colwell. The report is available at http://www.nps.gov/calltoaction/PDF/LeopoldReport_2012.pdf.

Grand Thoughts at Grand Canyon. A significant slice of the national parks establishment plans to gather in Grand Canyon National Park for a week in October to think grand thoughts about the national parks. The conference called Grand Thoughts at the Grand Canyon will run from October 16 to October 20. Among the featured leaders are National Parks Conservation association President Tom Kiernan, Brand USA Director Diane Shober, National Geographic Society Fellow Corey Jaskolski and Studio 78 Founder Brent Young. Numerous Park Service officials also are expected. The National Park Hospitality Association will host the 200 park community leaders at the Grand Canyon Lodge on the North Rim of the park. Grand Thoughts at the Grand Canyon is one of many events being held by supporters of the national parks in anticipation of the National Park System Centennial in 2016.

ROW in three parks progresses.

The Park Service announced August 31 the completion of a final EIS backing revisions to an electrical transmission line through 4.3 miles of the Appalachian National Scenic Trail, the Delaware Water Gap National Recreation Area and the Middle Delaware National Scenic and Recreational River. The proposal from the PPL Electric Utilities Corp. would replace an existing electrical transmission line with a larger line, a broader right-of-way and taller towers. The preferred alternative in the draft EIS is not universally popular. Said the Public Employees for Environmental Responsibility in comments on a draft EIS earlier this year: "The massive new towers in a new right-of-way will cross some of the most scenic, panoramic and untouched vistas in the NRA. The NPS cannot adopt Alternative #2 (the preferred alternative), and then simply insist with a straight face that the Alternative does not impair park scenery. The NPS cannot evade the Organic Act mandate by issuing a simple, conclusory declaration that the impacts of Alternative #2 are acceptable because they do not rise to the level of 'impairment.'" After a 30-day review period the Park Service will issue a record of decision to implement PPL's application.

Wolf hunting in Wyoming parks?

The Interior Department said August 31 that it will turn over to the State of Wyoming the management of the gray wolf in the state by the end of September. Environmentalists immediately complained that the transfer will open Grand Teton National Park and the John D. Rockefeller, Jr. Memorial Parkway to wolf hunting. The National Park Conservation Association (NPCA) asked the Park Service to issue a new regulation banning wolf hunting in the parks. Said NPCA Grand Teton Program Manager Sharon Mader, "Since delisting is now a fact in Wyoming, we call on the National Park Service to immediately move forward with rulemaking in the JDR Parkway and Grand Teton National Park to clarify and correct this policy by prohibiting the hunting of wolves within these park units." The transfer agreement requires the state to ban

hunting in Yellowstone National Park, but not in Grand Teton and the Parkway. The State of Wyoming welcomed the Interior Department decision. Said Gov. Matt Mead (R), "I am confident Wyoming's plan will provide a sustainable wolf population in Northwest Wyoming that will contribute substantially to the wolf population in the Northern Rocky Mountains. I have every expectation that Wyoming will do an excellent job managing wolves and the species will not be relisted."

NPS seashores at risk: report.

Two environmental groups August 29 published a new report describing the risks posed by global warming to seven national seashores on the Atlantic Ocean. "Ultimately, the greatest threat to the seashores is that they will be submerged under a higher ocean, driven by a hotter climate," say the Rocky Mountain Climate Organization and the Natural Resources Defense Council. "The report includes the first sets of maps to show the low-lying lands in these national seashores that are particularly vulnerable to inundation by a rising ocean in this century, and before that to destruction of bridges and roads, ecosystem losses, and disintegration of barrier islands by the forces of rising waters and stronger coastal storms." Theo Spencer, senior advocate in the Climate and Clean Air Program at the Natural Resources Defense Council, said, "This report makes clear that if we don't cut the amount of heat-trapping pollution we spew into the air, these special places that Americans love will never be the same." The affected areas include Cape Cod (in Massachusetts), Fire Island (New York), Assateague Island (Maryland and Virginia), Cape Hatteras (North Carolina), Cape Lookout (North Carolina), Cumberland Island (Georgia), and Canaveral (Florida) national seashores. The report may be found at http://www.rockymountainclimate.org/programs_15.htm.

FS travel plan challenged. In a lawsuit with broad national implications two recreation groups August 29 charged that a national forest travel management plan illegally limits powered recreation use. The suit addresses four areas

covering almost 200,000 acres that the Clearwater National Forest reviewed as inventoried roadless areas and identified as recommended wilderness areas (WRAs). The plaintiffs, the Idaho State Snowmobile Association and the BlueRibbon Coalition, essentially argue that the Clearwater National Forest is attempting to manage the areas as wilderness, an authority only Congress possesses. They contend it is illegal for the travel management plan to ban motorized and mountain bike access to previously designated trails and areas. Says the suit, "This action challenges the Travel Plan's administrative management of the RWA's essentially as Wilderness absent statutory designation by Congress, and the Regional Policy prescribing such administrative Wilderness management." Said Sandra Mitchell, public lands director of the Idaho State Snowmobile Association, "Only Congress can designate Wilderness. For many years we have heard rumors the Northern Region was going to start illegally limiting their management options in potential Wilderness areas, effectively creating a new system of administratively designated Wilderness. In the Clearwater Travel Plan they have followed through on that vision." The lawsuit is available at http://www.sharetrails.org/uploads/ISSA_BRC_Complaint-8.29.12.pdf.

FS cabin users are miffed. Back-country cabin and cross country ski trail users in Montana who have used an area for free in the past are protesting a Forest Service decision to charge to use the area. The Beaverhead-Deerlodge National Forest said it will now charge users of the Chief Joseph Ski Area and Gordon Reese Cabin. The complainants, including the Bitterroot Cross-Country Ski Club, have provided free maintenance and snow grooming for the facilities for a quarter century. The club and the Western Slope No-Fee Coalition have petitioned Forest Service Chief Tom Tidwell to reverse the decision. They have also asked Sen. Max Baucus (D-Mont.) to help. Said the coalition August 30, "The Ski Club, working in partnership with the Forest Service, has served the public well and enhanced their use of public lands for almost a quarter of a century. But because of

this decision that is all ending. They have notified the Forest Supervisor that they will no longer volunteer to host or maintain the cabin, and have wished him good luck."

CBO: HTF has money until 2015.

Thanks to an infusion of \$18 billion from the general fund this summer, the Highway Trust Fund (HTF) will stay in the black into fiscal year 2015, the Congressional Budget Office (CBO) concluded in a mid-year review of the federal budget. CBO said the Highway Trust Fund, which is supposed to finance highway programs, will end fiscal 2012 with a balance of \$8.7 billion. The HTF no longer collects enough money from gasoline taxes to cover annual highway construction costs. So when Congress approved a new surface transportation law, Moving Ahead for Progress in the 21st Century (MAP-21), this summer, it put up an extra \$18 billion to make ends meet. MAP-21 was signed into law by President Obama July 6 as PL 112-141.

Conference Calendar

SEPTEMBER

10-13. **Pro Walk/Pro Bike Conference** in Long Beach, Calif. Contact: The National Center for Bicycling and Walking, 1612 K Street, N.W., Suite 802, Washington, DC 20006. (202) 223.3621. <http://www.bikewalk.org>.

OCTOBER

2. **Watchable Wildlife Annual Conference** in Colorado Springs, Colo. Contact: Watchable Wildlife, Inc., PO Box 319, Marine on St. Croix, MN 55047. 651-433-4100. <http://www.watchablewildlife.org>.

3-5. **Outdoor Industry Association Rendezvous** in Boston, Mass. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

13-16. **The Wildlife Society Annual Meeting** in Snowbird, Utah. Contact: The Wildlife Society, 5410 Grosvenor

Lane, Bethesda, MD 20814-2197. (301) 897-9770. <http://www.wildlife.org>.

9-11. **Sportfishing Summit** in Hilton Head, S.C.. Contact: American Sportfishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. <http://www.asafishing.org>.

16-18. **National Recreation and Park Association** congress and exposition in Anaheim, Calif. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. <http://www.nrpa.org>.

31-Nov. 3. **The National Trust for Historic Preservation Annual Conference** in Spokane, Wash. Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, DC 20036. (202) 588-6100. <http://www.nationaltrust.org>.

NOVEMBER

7-9. **National Forest Recreation Association 64th Annual Conference and Trade Show** at the Silver Legacy Hotel in Reno, Nevada. Information will be posted on the NFRA website nfra.org or can be obtained by contact the NFRA Office at: 559-564-2365.

27-Dec. 1. **National League of Cities Annual Congress of Cities** in Boston, Mass. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. <http://www.nlc.org>.

30-Dec. 2. **Western Governors' Association Winter Meeting**. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202-5114. (303) 623-9378. <http://www.westgov.org>.