

# Federal Parks & Recreation

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## **NPS backers begin transition from summit to action**

A summit on the Park Service's future last month laid out a game plan for improving the parks in anticipation of a 2016 Centennial, and for making the parks relevant. Now in a second step the participants will begin to implement the game plan.

Said Tom Kiernan, president of the National Parks Conservation Association (NPCA) and one of the three lead summit hosts, "The overall goal for NPCA and the diverse national parks community of friends groups, concessioners and communities is to galvanize interest and support in the parks as we approach the Centennial."

Central to the mission of the support groups will be a billion-dollar endowment spearheaded by the National Parks Foundation, another sponsoring group. Kiernan told *FPR* in an interview February 6, "I imagine it will be part of the action agenda but we need to work our way through the process."

Kiernan said there may be some Congressional support for an endowment, if an endowment proposal requires legislation. "(Sen.) Mark Udall (D-Colo.) was interested in introducing legislation, depending on the kind of strategy is involved. NPCA and others are thinking about how it will work and whether a Congressional contribution would be involved," he said.

Udall attended the summit held January 24 through January 26 in Washington, D.C. He also chairs the Senate subcommittee on National Parks.

NPCA, the National Parks Foundation and the National Parks Hospitality Association - the three host groups of the summit - are attempting

to help the Park Service convert an agency Centennial agenda into action. The agenda is encapsulated in a major new NPS report, *A Call to Action*, that establishes a 36-point plan for the parks.

The *America's Summit on National Parks*, with some 300 attendees from around the country, prepared the groundwork for a Statement of Principles and Action Items to follow up on the NPS agenda.

The summit participants intend to put together a final Statement of Principles by the end of today and plan to complete an action agenda by the end of the month, said Kiernan. They hope to enlist hundreds of organizations around the country to pitch in.

Here are some of the areas the participants are working on:

**ENDOWMENT:** The Park Service report played down the need for increased appropriations from Congress to upgrade the parks for the Centennial, but it did call for the establishment of a \$1 billion dollar endowment. The summit seconded the motion with a goal "to provide the NPS with secure funding for the future," summed up the lead groups.

**ENGAGE CONGRESS/PUBLIC:** Despite the independent endowment idea, Congress must still provide baseline appropriations and support for the parks. So the participants and allied groups intend to press Congress for continued assistance.

**RELEVANCE:** This is not the summit's word but it is something the summit is striving for - an outreach to youths, minorities and others who have traditionally not visited the national parks. Also in the relevance basket is an increase in the use of social media.

**CENTENNIAL:** The 2016 100<sup>th</sup> anniversary of the National Park System provides a hard target for participants.

The NPS *A Call to Action* report was released Aug. 25, 2011. The report was prepared by NPS in anticipation of the system's Centennial in 2016 and

would in general not require new federal money.

In keeping with the frugal times the report treads lightly on the Obama administration's signature conservation recommendation - full funding for the Land and Water Conservation Fund at \$900 million or more per year. As close as the report comes to recommending more money is a call for a \$1 billion legacy endowment to be assembled from philanthropic sources. And by definition that money would come from nonfederal sources.

The summit has a website, [www.2016parksummit.org](http://www.2016parksummit.org).

## **House, Senate roads bills mount attacks on rec projects**

Despite all-out opposition from Democratic members, the House Transportation Committee February 3 approved a five-year surface transportation bill (HR 7) that would cut back substantially on recreation programs.

The 846-page bill, expected to reach the House floor in the next fortnight, would eliminate numerous set-aside programs such as scenic byways and Safe Routes to School.

And it would force the transportation enhancements program to seek money from state transportation departments by eliminating an automatic 10 percent allocation from a Surface Transportation Program.

Finally, HR 7 would eliminate five (of 12) activities authorized to receive transportation enhancements (TEs) money: acquisition of scenic or historic easements, including battlefields; historic preservation; rehabilitation and operation of historic transportation facilities; preservation of abandoned railway corridors; and transportation museums. According to the Rails-to-Trails Conservancy those five activities make up 24 percent of the TE projects.

A counterpart Senate bill (S 1813) approved by the Senate Environment and

Public Works Committee Nov. 9, 2011, would also cut back on rec programs. The Senate would not eliminate recreation programs altogether but would terminate their set-aside status. Such programs as TE, recreational trails, scenic byways and Safe Routes to School would have to compete with a host of other programs for money under two major headings.

Not all outdoor programs are losers. The House Transportation Committee did set aside \$85 million per year for the Recreational Trails Program. And it set aside \$535 million per year for federal land roads, 38 percent of which is to go for National Park Service roads (or \$203 million), 32 percent to national forest roads and 4.5 percent to the Fish and Wildlife Service.

The Senate committee bill, which the full Senate began to address February 9, would also keep federal and Indian land roads alive with an annual allocation of \$750 million. Of that \$260 million would be set aside for national park roads.

In the House committee mark-up February 3 HR 7 was vigorously contested. Rep. Earl Blumenauer (D-Ore.), perhaps the most pro-biking member of Congress, called the House committee product "arguably the worst transportation bill in the history of Congress."

He went on, "It reverses 20 years of transportation reform by attacking the cheapest way to develop highway capacity in most communities, transit and cycling. It even eliminates the Safe Routes to School program for our children."

But the committee under chairman John Mica (R-Fla.) painted HR 7 as a states-rights measure. "The American Energy & Infrastructure Jobs Act eliminates a number of mandates that prevent states from being able to fund their most critical infrastructure needs," said a committee information sheet. "The bill ensures that states will no longer be required to spend highway funding on non-highway

activities, although they will be permitted to fund such activities if deemed to be priorities. The bill also delegates more project approval authority to states."

During a marathon 18-house mark-up session three House committee members offered a major recreation amendment that was defeated by a 27-to-29 vote. The measure would have (1) mandated a continued 10 percent TE allocation under the Surface Transportation Program (something more than \$600 million per year) and (2) reinstated the Safe Routes to Schools program at its former funding level (about \$200 million per year).

The amendment, introduced by Reps. Tom Petri (R-Wis.), Timothy Johnson (R-Ill.) and Dan Lipinski (D-Ill.), would make states spend the money on TEs and Safe Routes to School. The amendment says, "A State may not withhold a grant to an eligible entity for a project if funds are available for the project under this section and if the project is eligible."

In the bigger money picture both the House and Senate bills are in deep trouble. The Highway Trust Fund provides an estimated \$28 billion of the \$40 billion per year needed to implement HR 7 and S 1813, leaving a \$12 billion gap.

House Republicans say they will obtain the extra \$12 billion from three energy bills approved by the House Natural Resources Committee February 1. However, House Democrats say that the legislation for such things as accelerated offshore oil and gas leasing would provide only \$5 billion, and that over 10 years. "These bills don't even come close to closing the \$50 billion shortfall in transportation funding over the next five years," said Rep. Rush Holt (D-N.J.)

Senate Democrats are relying on the Senate Finance Committee and its chairman Max Baucus (D-Mont.) to make up the \$12 billion per year shortfall. The finance committee's job is a little easier than the House's because S 1813 is only a two-year bill compared to the five years for HR 7.

On February 7 Baucus proposed a suite of taxes and transfers from other programs to make up the \$12 billion. The changes would include such things as removing a tax credit on certain biofuels.

Keeping the pressure on Senate Democratic leaders are Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) and ranking minority member James Inhofe (R-Okla.) They issued a joint statement February 2 that quoted Boxer, "Surface transportation legislation is finally getting the attention it needs and deserves. Congress must pass legislation that will rebuild the nation's crumbling infrastructure, boost the economy, and create jobs, and the only way to get the bill to the President's desk is through our bipartisan approach. Senator Inhofe and I remain committed to working together to pass this much-needed job creating legislation."

Here is what the House and Senate would do to a half-dozen leading recreation programs:

**Transportation enhancements (TEs):**

The House committee bill would retain the program but would eliminate its \$600 million annual guarantee from 10 percent of Surface Transportation Program funding. Instead, TE projects would have to compete with dozens of other programs.

In addition the House bill would eliminate five eligible activities: acquisition of scenic or historic easements, including battlefields; historic preservation; rehabilitation and operation of historic transportation facilities; preservation of abandoned railway corridors; and transportation museums.

The pro-TE House amendment would have restored the 10 percent TE share of Surface Transportation Program money and would have retained all 12 categories of eligible projects. Because of the close 27-to-29 vote the House amendment is a good candidate for a House floor amendment.

The Rails-to-Trails Conservancy told its members in a bulletin, "But all is not lost. The many thousands of you who contacted your representatives during the past few days about this amendment made a strong and powerful statement that Americans from all across the country want, need and deserve more trails and walking and bicycling opportunities."

The Senate bill would retain TE as an eligible program but would make it compete against numerous other programs. One, it would open up the old 10 percent TE set-aside to other programs as well as TEs, including recreational trails, Safe Routes to School, planning and "transportation choices." That last would include "on-road and off-road trail facilities."

Two, TE would have to compete with 26 other programs, some recreation and some not, for money held in a Transportation Mobility Program.

**Recreational Trails Program (RTP):**

The House committee bill would retain RTP as a set-aside program with a guaranteed allocation of \$85 million per year for five years.

The Senate bill would not make RTP a set-aside program. Instead, it would allow states to spend the 10 percent of Surface Transportation Program set-aside money formerly allocated to TEs on recreational trails, if they so chose. And it would allow states to use money from the Transportation Mobility Program for recreational trails.

**Scenic Byways:** The House committee bill would eliminate the program. It would also eliminate funding for the America's Byways Resource Center. That may not matter because the Obama administration is already closing the center down.

The Senate would allow the byways program to compete with 26 categories of programs for Transportation Mobility Program money from state transportation departments.

**Safe Routes to School:** The House

would eliminate the program. The pro-recreation House committee amendment would authorize the program to use \$200 million per year from the 10 percent of Surface Transportation Program money that was formerly set aside for TEs. That amendment of course failed in committee.

The Senate would allow Safe Routes to School to compete with 26 categories of programs for mobility program money. State transportation departments would decide where to spend the money.

**Federal land roads:** The House committee bill would set aside \$535 million per year for federal land roads, 38 percent of which would go to National Park Service roads (or \$203 million), 32 percent to Forest Service roads (\$171 million) and 4.5 percent to the Fish and Wildlife Service.

The Senate committee bill would also keep federal and Indian land roads alive with an annual allocation of \$750 million. Of that \$260 million would be allocated to national park roads.

## **Forest Service planning rule rouses critics, supporters**

Secretary of Agriculture Tom Vilsack last month announced the completion of a long-awaited policy that will guide Forest Service planning for the next decade or more, if it is not blocked in court.

The policy - in the form of a proposed rule and a preferred alternative in a final EIS - will tell individual forests how to prepare customized rules for their forests and what standards to use in the rules. A final planning rule is expected to be issued in the next month or so.

Vilsack and Forest Service Chief Tom Tidwell said they heard recreationists complain that a draft EIS did not give recreation its due. "The alternative we are proposing will require recreation use not only be sustainable but also be a central consideration in every forest plan," said Vilsack at a press conference.

Added Tidwell, "People wanted to see that recreation was a key part of multiple use. And so we made some changes there to make sure we would address the benefits and needs of sustainable recreation."

Perhaps the most controversial provision is a concept of "ecologically sustainable." Both Vilsack and Tidwell talked of "sustainable" recreation. That might be a red flag for commercial users and motor-powered recreationists.

They fear that ecological sustainability would (1) forbid damage to the environment and (2) require land uses to be economically self-sustaining, i.e. pay for themselves. National forest recreation is subsidized by appropriations to the tune of more than \$280 million per year. If recreation were forced to sustain itself, user fees would of necessity go through the roof.

While environmentalists and most of their Congressional allies argued that forests must be ecologically sustainable, Congressional Republicans - and some Democrats - don't.

House Natural Resources Committee Chairman Doc Hastings (R-Wash.) attacked the preferred EIS. "These new Obama regulations introduce excessive layers of bureaucracy that will cost jobs, hinder proper forest management, increase litigation and add burdensome costs for Americans," he said.

But his Senate counterpart, energy committee Chairman Jeff Bingaman (D-N.M.), backed the administration. "The Forest Service's proposal is a balanced approach to more efficient and collaborative planning for the management of our National Forests," said Bingaman. "It will provide for sustainable access, protection, and use of the watersheds, habitat and resources of these public lands."

Environmentalists agreed with Bingaman. "We're pleased to see the Obama administration taking action to protect our forests and grasslands," said Fran Hunt, director of the Sierra Club's Resilient Habitats campaign. "The new standards respond to public

comments, rightly prioritizing science in deciding how to best protect our waters, wildlife and wild places for a rapidly changing future."

The Forest Service issued a draft EIS almost a year ago on Feb. 14, 2011. On Dec. 29, 2011, the service solicited nominations to a 21-member advisory committee that will help implement the rule. Nominations are due by February 13.

If they so choose, Congressional Republicans could always attempt to block implementation of a rule with legislation, with their best chance of success a rider to an appropriations bill.

The Forest Service has been trying for almost a decade to write a forest-planning rule that will get by the courts. The Bush administration struck out twice. On January 5, 2005, it completed a first set of regulations, without preparing an EIS. And on April 21, 2008, it tried again with a perfunctory EIS. Two federal judges held separately that the Forest Service failed to adequately evaluate the environmental impacts of the rules.

Vilsack said at a January 26 press conference that the legal paralysis had essentially forced many forests to rely on a 1982 rule to guide the writing of plans. As a result, he said, 68 of 127 forest plans were more than 15 years old.

This time around the Obama administration did complete a 373-page EIS plus a 40-page appendix describing the preferred alternative. When converted into regulatory language the policy will tell individual forests how to customize rules for their forests and what standards to follow in the rules. A final planning rule is expected to be issued in the next few months.

At the January 26 press conference Forest Service Chief Thomas Tidwell was optimistic that the rule would speed the writing of individual forest plans. "We think this rule will cut the time required to prepare plans in half," he said. "In the past it took five-to-seven

years to develop plans. We think with this rule it will take three-to-four years at the most. Over time we will be able to reduce even that."

Last year the recreation community complained longer and louder than either industry or environmentalists. The recreationists charged that back-up documents prepared by Forest Service planners gave recreation short shrift.

As required by the NFMA the Forest Service has since 1976 prepared 127 forest plans to guide land uses in 155 national forests and 20 grasslands (some plans cover more than one forest and/or grassland.)

Under NFMA forest plans are to be revised every 15 years. However, the agency said dozens of the existing plans are overdue for revision because they should have been rewritten between 1998 and now.

The service said February 1 that it will first implement the rule in eight national forests after it is completed "in the months ahead." The forests are the Nez Perce-Clearwater in Idaho, the Chugach in Alaska, the Cibola in New Mexico, El Yunque in Puerto Rico and the Inyo, Sequoia and Sierra National Forests in California. The rule and back-up information are available at <http://www.fs.fed.us>.

## **Congress tilts toward operators in air tour bill**

Congress gave final approval February 6 to legislation (HR 658) that will allow air tour companies to operate in national parks that do not have air tour management plans in place. HR 658 would allow operators to negotiate "voluntary agreements" within individual parks.

The bill, a broad measure to authorize Federal Aviation Administration (FAA) operations, largely follows the recommendations of the House by favoring air tour operators.

The final legislation was put together by a House-Senate conference

committee last week. It rejects most, but not all, Senate recommendations that largely favored air tour operators.

The House approved the measure February 3 by a 248-to-169 vote and the Senate followed February 6 by a 75-to-20 vote. President Obama is expected to sign HR 658 into law.

In one key action the House-Senate conference committee last week dropped a Senate provision, crafted by Sen. Ron Wyden (D-Ore.), that would have clarified the division of labor between FAA and NPS on air tour matters. The provision would have said that FAA is responsible for controlling airspace over the country and the Park Service is responsible for protecting the parks, giving NPS more muscle in disputes with FAA.

The conferees did accept Wyden language that would allow Crater Lake National Park to reject an application for air tours over the park until an air tour management plan was written. And it's highly unlikely than an air tour plan will be written anytime soon.

Wyden said on the Senate floor February 7, "One of the things I'm most proud of is that this bill permanently protects Crater Lake from the threat of noisy air tours. As most folks who have visited Crater Lake know, the quiet and peace of the park is just as important as its scenic beauty. This legislation says that Crater Lake is specifically off limits to any overflights that might threaten that tranquility."

It's also not likely than any air tour plans for any other parks will be written anytime soon. That's because even though Congress wrote a major overflight law in 2000 requiring such plans in national parks, none has been written in the last 12 years.

The impasse is allegedly caused by differences of opinion between the FAA and the Park Service (FAA tends to work for the air tour operators, NPS works for the parks).

So to keep air tour operators in business the House-Senate conference

committee approved a two-part provision. One part exempts operators in parks with fewer than 50 flights per year from obtaining an air tour permit. However, the bill would allow NPS and FAA to withdraw that exemption "to protect park resources or visitor experiences," says the bill. The provision doesn't set standards for withdrawing an exemption.

The other part authorizes FAA and NPS to develop voluntary agreements with operators to provide overflight services where no management plan is in place.

The voluntary agreements aren't open-ended. The House report language says, "The FAA and NPS are permitted to terminate a voluntary agreement if: 1) NPS finds the agreement no longer protects park resources; or 2) FAA determines operations under the agreement adversely affect safety or the national aviation system." But again the law doesn't set limits on damages to park resources.

In putting together the final bill the conference dropped another Senate provision that would have assessed fees on air tour operators large enough to pay for air tour management plans. The amendment was sponsored by Sen. Tom Coburn (R-Okla.), frequently a critic of initiatives to expand the National Park Service. His amendment would have given the Interior Department authority to assess a fee, with the amount to be determined.

The base legislation to reauthorize operations of FAA had been held up, not by the air tour language, but by a dispute between labor unions and airlines over certification of unions.

## **Rockies poll shows support for outdoor spending, access**

A new poll commissioned by Colorado College says that voters in the Rocky Mountains believe that state governments should spend money to protect conservation lands, even in a time of tight budgets.

Eight-six percent of voters in

the six Rocky Mountain states agreed that states should protect land, water and wildlife "even with state budget problems." And 85 percent of those voters agreed that states should protect and maintain state parks when budgets are cramped.

"Despite those fiscal realities many voters are telling us we ought still to be able to find money whether for state land and wildlife or to maintain state parks," Lori Weigel, one of the pollsters, said at a January 30 roll-out. "This was true in every single state."

More broadly, the voters said economic development is compatible with protection of land and water.

The poll, co-conducted by a Republican and Democratic pollster, said 78 percent of voters in six western states agreed with that sentiment. Only 19 percent said protection and development are sometimes in conflict and "we must choose one over the other."

Said Weigel, "Notably, this is one area where we see strong agreement across the political spectrum. Three-quarters of Republican and Independent voters say so, and 84 percent of Democrats and even three-quarters of Tea Party supporters say the same."

The pollsters argued that, at bottom, residents of the Rockies favor conservation. "Western voters consistently believe that conservation helps create and protect jobs for their states," said pollster Dave Metz. "In fact, by a 17-point margin, voters are more likely to say that environmental regulations have a positive impact on jobs in their state rather than a negative one."

The results of the poll contrast with the national either/or political debate, said Colorado College economist and State of the Rockies Project faculty director Walt Hecox, PhD. "What we read in the press and what politicians say about an ever-sharpening trade-off between the environment and jobs in a deep recession do not square with views of many western voters," he said.

The 2012 Colorado College State of the Rockies Conservation in the West poll was conducted by Republican Weigel of Public Opinion Strategies and Democrat Metz of Fairbank, Maslin, Maullin, Metz & Associates. The results were published January 30.

The poll surveyed 2,400 registered voters in Arizona, Colorado, Montana, New Mexico, Utah and Wyoming from January 2 to January 7.

The voters appeared to support limits on commercial uses of the public lands that could affect recreational uses. "We asked if we should not allow private company activities on public lands to interfere with the enjoyment of or access to public lands," said Weigel. "Seven of 10 agreed with this statement and 44 percent strongly agreed. A large number of voters who think of themselves as hunters or anglers were in particularly strong agreement with this idea."

The results of the poll and information about it are available at: [http://www2.coloradocollege.edu/stateoftherockies/conservationinthewestsurvey\\_e.html](http://www2.coloradocollege.edu/stateoftherockies/conservationinthewestsurvey_e.html).

## **NPS yields and bans bottled water in Grand Canyon**

After all that, Grand Canyon National Park will not allow bottled water in the park, beginning early next month.

The park had originally intended to ban bottled water in the park more than a year ago but was stopped by NPS management. Critics said the suspension of the proposed policy was done as a favor to the Coca-Cola Company, a producer of bottled water.

As a result of the subsequent controversy the Park Service issued a comprehensive national policy in December that authorizes regional directors to have the final word.

So on February 6 NPS announced that Intermountain Regional Director John Wessels had approved the ban on



bottled water in Grand Canyon. "I feel confident that the impacts to park concessioners and partners have been given fair consideration and that this plan can be implemented with minimal impacts to the visiting public," Wessels said.

The details of the water bottle brouhaha are now familiar. On May 12, 2010, former Grand Canyon Superintendent Stephen P. Martin advised concessions companies that operated in the park that effective Dec. 31, 2010, NPS would ban plastic water bottles in Grand Canyon. Some 30 percent of the trash in the park comes from water bottles.

Martin changed course on Dec. 22, 2010, when he advised concessioners that the ban on the sale of water bottles "has been temporarily delayed." He acted at the behest of NPS Director Jon Jarvis.

Then late last year the environmental group Public Employees for Environmental Responsibility charged that the Park Service changed policy in response to pressure from the Coca-Cola Company. The company sells bottled water.

Finally, on Dec. 14, 2011, the Park Service issued a new water bottle policy, not just for Grand Canyon but for all units. The policy allows superintendents to ban water bottles if they first obtain approval from the applicable regional director. The superintendents must first submit a request in writing.

During the scrum a liberal online group took partial credit for changing the Park Service's mind. The group, Change.org, says it produced nearly 100,000 petitions to the Park Service.

However, the Park Service said the group didn't change its mind. Asked if the campaign affected the Park Service policy, a Park Service spokesman said cryptically, "The answer is no. They did not affect it."

The spokesman would not say on the record why the Change.org campaign was not a major factor in forging the new

policy, but the implication is that the policy change was already in process. The spokesman did acknowledge that chief NPS spokesman David Barna and Grand Canyon National Park were besieged with petitions.

## **Status quo expected in Obama FY 2013 budget request**

When the Obama administration submits its fiscal year 2013 budget Monday (February 13) the overarching question is, as always, how much priority will it give to conservation?

In fiscal 2012, despite criticism from House Republicans, the administration aggressively backed spending for such conservation programs as the Land and Water Conservation Fund (LWCF), state wildlife conservation grants and a Forest Legacy program.

For fiscal 2013 the best guess overall for an Interior bill is a flat budget request, with isolated increases for pet programs. Said Alan Rowsome, who handles budget issues for The Wilderness Society, "I think the Interior budget request won't have a lot of surprises, it will be similar to last year. There may be some investments here and there for larger landscapes. But overall it's an election year and the budget act (PL 112-25 of Aug. 2, 2011) set-aside for domestic spending doesn't leave much room."

Looming over the appropriations process is the failure of a high-powered Congressional budget committee, set up by PL 112-25, to reach agreement on long-term spending in November.

That failure is supposed to trigger an automatic across-the-board budget reduction of \$1.2 trillion over 10 years, effective January 2013. But the potential trigger will be pointed at Congress all this year. Of course, Congress could always pass some modifying budget legislation.

For fiscal 2013 then Congress may just develop appropriations bills as usual and worry about the trigger when it fires. "What I hear is Congress is

going to do budgets (and appropriations) as if the sequestrations are not going to happen," said Rowsome. "But if the sequestrations fall our best guess is it would take nine percent out across-the-board as of January."

In the annual appropriations scrum Republicans and Democrats generally agree that Congress should retain an adequate spending base for federal land management agencies.

The Park Service is well aware that in fiscal 2013 the agency will unlikely receive more money than it now receives. With that in mind the agency last summer published a landmark policy guide to prepare for the system's Centennial in 2016 that would in general not require increased federal appropriations.

But the report does recommend a \$1 billion legacy endowment to be assembled from philanthropic sources. By definition that money would come from nonfederal sources. (*See separate article on the Park Service centennial on page one.*)

One advocate of the national parks, Tom Kiernan, president of the National Parks Conservation Association (NPCA), said Congress should keep in mind the economic benefits of the parks. "Given the economic benefits we hope Congress will realize that every dollar of appropriations leads to \$4 in economic activity," he told us.

The fiscal year 2012 appropriations wars over conservation probably set the template for fiscal 2013. For instance, for federal land acquisition the Obama administration recommended \$465 million, the Republican-controlled House approved a tenth of that, or \$46.7 million, and a draft Senate bill called for \$187.3 million. Congress agreed on \$186.7 million.

Here's how the appropriations battle ended up for some key programs funded by the Interior and Related Agencies appropriations law (PL 112-74 of Dec. 23, 2011.)

\* LWCF FEDERAL: Final, \$186.7

million (BLM \$22.4 million, Fish and Wildlife Service \$54.7 million, NPS \$57 million and FS \$52.6 million). Senate, \$187.3 million (BLM \$23.4 million, Fish and Wildlife Service \$59.9 million, NPS \$66.5 million and FS \$37.5 million). House, \$46.7 million total. Fiscal 2011, \$164.9 million.

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

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

\* HISTORIC PRESERVATION FUND: Conference, \$56 million. Senate, \$64 million. House, \$49.5 million. Fiscal 2011, \$54.4 million.

\* SAVE AMERICA'S TREASURES: Conference, No break-out. Senate, \$8 million. House, nothing. Fiscal 2011, nothing.

\* NPS OPERATIONS: Conference, \$2.240 billion. Senate, \$2.230 billion. House, \$2.243 billion. Fiscal 2011, \$2.250 billion.

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

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

\* NPS CONSTRUCTION: Conference, \$159.6 million. Senate, \$153 million. House, \$152.1 million. Fiscal 2011, \$184.6 million.

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

\* FS TRAILS: Conference, \$82 million. Senate, \$82.2 million. House, not clear. Fiscal 2011, \$88.4 million.

\* FOREST LEGACY: Conference, \$54 million. Senate, \$58 million. House,

not clear. Fiscal 2011, \$52.8 million.

\* BLM RECREATION: Conference, No break-out. Senate, \$68.7 million. House, \$67.6 million. Fiscal 2011, \$68.8 million.

\* FWS REFUGE MANAEMENT: Conference, \$486.5 million. Senate, \$483 million. House, \$455 million. Fiscal 2011, \$492 million.

## **NPS takes another step toward Y'stone snowmobile policy**

With a temporary plan in place for this winter the Park Service is now preparing a permanent rule governing snowmobiles in Yellowstone National Park and Grand Teton National Park.

NPS said in the *Federal Register* February 8 it would prepare still another environmental document this year that will further analyze the impacts of snowmobiles on the parks, and asked for public input on that document. The supplemental EIS, based on a draft EIS of nine months ago, constitutes one of a half-dozen analyses of snowmobile use in Yellowstone in the last decade.

In the first step the parks will hold a public hearing Monday (February 13) in Cody, Wyo., followed by three more hearings in Montana and Wyoming.

A draft plan/EIS NPS published last May presents seven alternatives that will form the basis of the final EIS. Those alternatives range from no motorized use to up to 720 snowmobiles and 78 snowcoaches per day. Except for Alternative One, which would bar all powered vehicles from the park, the alternatives anticipate substantial snowcoach use to complement snowmobile use.

Interest groups are gearing up for the hearings. The BlueRibbon Coalition February 1 put out a bulletin to its members saying a permanent rule "could provide for a much-needed, reasonable, science-based, long-range Winter Use Plan for Yellowstone National Park."

However, for 12 years the Park

Service has attempted to produce such a rule that would be acceptable to federal courts and has failed.

For this winter (December 2011 through early 2012) the Obama administration punted on completing a new rule. It simply extended a temporary rule from the 2010-2011 season.

For the current season the park is authorizing up to 318 snowmobiles 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. The average in the proposal would have been 254 machines per day. Snowcoach use in the proposal would have ranged from 30 to 80 vehicles per day.

When NPS last May proposed the variable limits it was met with stiff opposition from Wyoming politicians (they demanded a much higher limit) and a coalition of Park Service retirees and environmentalists (they demanded no snowmobiles in the park).

NPS said it "intends" to publish a final supplemental EIS, a permanent record of decision and a rule to implement the decision before the 2012-2013 winter season begins mid-December 2012. That assumes the park plan is not blocked by politicians or by the courts.

The Park Service for the fourth time in a decade is attempting to develop a permanent rule to govern snowmobile use in Yellowstone. The previous three rules were thrown out by various courts, forcing NPS to issue temporary rules.

For more information on the plan go to <http://parkplanning.nps.gov/yell>.

## **Utah governor, enviros rev up RS 2477 routes disputes**

Utah Gov. Gary R. Herbert (R) and his environmentalist critics have stepped up their rhetoric in their war over thousands of rights-of-way (ROWS)

across public lands claimed by the state.

In his State of the State message last month the governor lashed out at the federal government over the dispute. "We will not capitulate to a federal government that refuses to be constrained by its proper and Constitutionally-limited role," he said.

Herbert referred to the controversy as part of "fighting the federal government on ownership and control of our RS 2477 roads." The state has laid claim to 19,000 ways called RS 2477 roads that cross public lands.

Heidi McIntosh, associate director of the Southern Utah Wilderness Alliance (SUWA), begged to differ. "With 40 kids per classroom and no money for schools, the State of Utah has now bet millions of taxpayer dollars on litigating title to nearly 19,000 remote dirt roads, 16,594 of which have never been maintained or constructed," she said.

To reinforce the point SUWA sent out a fund-raising bulletin to its troops February 6 that warned, "These 'highways,' many of which are actually hiking trails, dry stream beds and cow paths, would invite rampant and destructive off-road vehicle use and create obstacles to the protection of proposed wilderness lands. Soil erosion, noise, water pollution, and degraded native plant and wildlife habitat would all result."

The State of Utah on Dec. 14, 2011, accelerated its long-standing campaign to claim the RS 2477 ROWs. In "notices of intent" the state warned the Interior Department it will file formal lawsuits to claim 18,784 RS 2477 ROWs across department-managed lands.

The notices follow closely on the heels of two actual lawsuits the state co-filed on Nov. 14, 2011, for 804 ROWs. The lawsuits were jointly filed by two Utah counties.

In a sample copy of a "notice of interest" on behalf of Box Elder County provided by the governor's office, the

state first argued that federal law grants states and local governments the rights to RS 2477 ROWs.

The notice then said, "The herein described (ROWs) are vital to the transportation system and economy of the State of Utah and Box Elder County. Consequently, the United States' failure to recognize the State's and county's interest in these (ROWs) creates a cloud on title that impairs the ability of the State to exercise its legal rights regarding the herein described (ROWs)."

The lands involved in the notices of intent lie in 22 of the 26 counties in Utah (The state did not file notices in the four counties with little public land presence.) The state intends to file 22 separate lawsuits to acquire 16,594 Class D roads that have been lightly maintained and 2,190 Class B roads that are in better condition.

In the two separate November lawsuits the state teamed up with Kane and Garfield Counties to claim 804 roads. Some of those rights-of-way cross conservation lands such as the Grand Staircase Escalante Monument and the Glen Canyon National Recreation Area.

Utah is claiming the rights-of-way (ROWs) under the Federal Land Policy and Management Act. That law authorized the states to claim title to old ROWs used before 1976 pursuant to the Mining Law of 1866, also called Revised Statute 2477, or RS 2477.

The State of Utah has estimated it spends about \$1.5 million per year on road claims. That does not include county costs.

In a landmark 2005 court decision, *Southern Utah Wilderness Alliance v. BLM, Nos. 04-4071 & 04-4073 of Sept. 9, 2005*, the Tenth U.S. Circuit Court of Appeals ruled that BLM could not adjudicate the validity of RS 2477 ROW assertions. It said only a federal court held that power.

So the State of Utah and the two counties are seeking court validation to the RS 2477 ROWs in Kane and Garfield Counties.

The 1,365-page Kane County suit seeks title to 710 road segments. Most of the complaint describes roads being sought. Only 35 or so pages consist of legal arguments. The Garfield County suit seeks 94 segments of roads. The suits were filed before U.S. District Court Magistrate Brooke C. Wells in Utah Nov. 10, 2011, and announced in a state press release Nov. 14, 2011.

## Notes

### **Hunting rights bill stirs concern.**

Two senators introduced legislation (S 2066) February 2 that would establish a baseline "open unless closed" policy for access to public lands for hunting and fishing. But The Wilderness Society objects to an implication in the bill that land managers may open up wilderness areas to motorized vehicles. "This legislation has 'Trojan Horse' language in it that would have devastating consequences for wilderness protection," said Dave Alberswerth, senior policy advisor at The Wilderness Society. The language is obtuse but essentially it says that The Wilderness Act would have limited application to hunting and fishing grounds. S 2066 was introduced by Sens. Lisa Murkowski (R-Alaska), the ranking Republican on the Senate Energy Committee, and Joe Manchin (D-W.Va.) The legislation would apply to lands managed by the Bureau of Land Management and the Forest Service. Rep. Dan Benishek (R-Mich.) and 45 bipartisan cosponsors introduced a counterpart House bill (HR 2834) last year. The contested language says "any requirements imposed by (The Wilderness Act) shall be implemented only insofar as they facilitate or enhance the original or primary purpose or purposes for which the Federal public lands or Federal public land unit was established and do not materially interfere with or hinder such purpose or purposes."

**Errata water rights/ski area article.** The National Ski Areas Association (NSAA) takes issue with an article in the last issue of *FPR* on an association lawsuit against the Forest Service over water rights. The association objects to an implication that ski resorts have a privileged opportunity to obtain valuable water

rights because they hold long-term contracts with the Forest Service. An NSAA spokeswoman said, "Water rights are developed, applied for and adjudicated under state law. It really has nothing to do with our special use permit(s). I think the implication that there is an effect on the taxpayer is terribly misleading."

### **Feds fault coal mine near Bryce.**

The Park Service and the Fish and Wildlife Service (FWS) have submitted critical comments to the Bureau of Land Management (BLM) in response to a proposed expansion of a coalmine near Bryce Canon National Park, according to the *Washington Post*. The newspaper quoted comments from a Park Service official questioning the "combined impact to air resources/air quality related values, night sky resources and the park and in the region, and the park's natural landscape." BLM proposed the lease of 3,581 acres of public land November 4 to allow the Alton Coal Development company to expand a current Coal Hollow mine from private land onto public land. The proposed action in the EIS calls for a competitive lease sale. But BLM said it was also considering an alternative that would remove 394 acres from the lease near the Town of Alton. The proposed mine expansion lies 10 miles from Bryce Canyon.

### **Richmond Battlefield to expand.**

Secretary of Interior Ken Salazar and Virginia Gov. Bob McDonnell (R) February 1 emphasized the tourism implications of a \$4 million allocation to acquire land for the Richmond National Battlefield Park. The money from the Land and Water Conservation Fund will be used to acquire 385 acres on the Glendale and Malvern Hill battlefields. The sites hosted major actions during Union Gen. George B. McClellan's unsuccessful campaign in 1862 to take Richmond, the Confederate capital. "The history of Virginia is the history of our country, and we want all Americans, and visitors from across the world, to come to the Commonwealth to learn about this incredible history," McDonnell said. Out-of-town visitors to Richmond National Battlefield Park contributed more than \$8 million to the local economy in 2010. The problem with

Richmond National Battlefield Park is that the 30-some battle sites of 1862, 1864 and 1865 are spread out over a large area, much of which has been developed.

**EPA provides beach grants.** EPA said January 31 that it will distribute as usual \$10 million in grants to states and Indian tribes to monitor beach water quality. The money is to be used by state and local health and environmental protection agencies to check bacteria levels in water near the nation's beaches. When bacteria levels are too high, the agencies post a warning or close a beach. This is the 12<sup>th</sup> year EPA has distributed the grant money under the Beaches Environmental Assessment and Coastal Health Act of Oct. 10, 2000. EPA will distribute \$9.8 million. The fiscal year 2012 appropriation provided by Congress matches the fiscal 2011 appropriation, \$9.880 million (PL 112-74 of Dec. 23, 2011.)

**National park in Chicago boosted.** Rep. Jesse Jackson Jr. introduced legislation February 3 that would authorize a study of the Pullman Historic Site as the first National Park System unit in Chicago, Ill. The Pullman site was originally a planned industrial community 15 miles south of the Loop in Chicago. It is now owned by the State of Illinois. The Illinois Historic Preservation Agency manages the facility. The state acquired the site in 1991. The National Parks Conservation Association (NPCA) said it hopes Pullman will become a unit of the National Park System. "This special resource study is just the first step, but it's an important one, and one that has been talked about for many years," said Lynn McClure, Midwest regional director for NPCA. "We are confident that this study will only reaffirm this Site's cultural and historic significance and will ultimately lead to its designation as Chicago's first national park."

**CRP enrollment scheduled.** The Department of Agriculture will hold a six-week sign-up for the Conservation Reserve Program (CRP) from March 12 to April 6. Landowners who enroll in the program agree to manage their land for

conservation purposes in return for rent and cost-share assistance. About 30 million acres are now in the CRP under long-term 10-to-15 year contracts. But contracts on 6.5 million acres are due to expire before September 30. Under CRP landowners have restored more than 2 million acres of wetlands and 2 million acres of riparian buffers.

## Conference Calendar

### MARCH

3-6. **National Association of Counties** legislative conference in Washington, D.C. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, DC 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.

12-17. **North American Wildlife** conference in Atlanta, GA. Contact: Wildlife Management Institute, 1146 19th Street, NW, Suite 700, Washington, DC 20036. (202) 371-1808. <http://www.wildlifemanagementinstitute.org>.

13-17. **American Alliance for Health, Physical Education, Recreation and Dance** annual meeting in Boston. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191. (703) 476-3400. <http://www.aahperd.org>.

27-29. **NRPA National Legislative Forum on Parks and Recreation**, in Washington, D.C. Contact: National Recreation and Parks Association, 1901 Pennsylvania Ave, N.W., Washington, DC 20006. (202) 887-0290. <http://www.nrpa.org/legforum/>.

### APRIL

16-18. **National Hydropower Association** annual meeting in Washington, D.C. Contact: National Hydropower Association, One Massachusetts Ave., N.W., Suite 850, Washington, D.C. 20001. (202) 682-1700. <http://www.hydro.org>.

16-19. **National Association of Recreation Resource Planners** annual meeting in Baton Rouge, La. Contact: National Association of Recreation Resource Planners, P.O. Box 221, Marienville, PA 16239. (814) 927-8212. <http://www.narrp.org>.