

Federal Parks & Recreation

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Volume 30 Number 4, February 24, 2012

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GOP indicates it will resist Obama conservation budget

House Republicans posted notice February 15 that they will oppose Obama administration fiscal year 2013 conservation spending proposals.

At an initial hearing on the administration's budget request by the House Natural Resources Committee, chairman Doc Hastings (R-Wash.) blasted a central administration land acquisition proposal.

"We must set priorities and make tough choices on how to cut spending and where to best direct scarce taxpayer dollars," Hastings said. "For instance, like last year, I must again question the need to increase funding for the federal government to purchase more federal land."

Hastings repeated the argument western Republicans have advanced for years: The federal government should not acquire more land via the Land and Water Conservation Fund (LWCF) while agencies face maintenance backlogs.

"While the request for land acquisition was cut in half from last year, it still represents a \$160 million spending increase compared to when President Obama took office," Hastings said. "The Interior Department continues to have a maintenance backlog on federal lands that measures into the billions. The bottom line is that we should not be increasing spending for land acquisition when the government cannot maintain the land it already owns."

For his part at the hearing Secretary of Interior Ken Salazar backed LWCF. And he backed the administration's signature conservation initiative, America's Great Outdoors

(AGO). "As part of America's Great Outdoors, Interior is supporting 101 signature projects in 35 states across the country to make parks accessible for children, create great urban parks and community green spaces, re-store rivers, and create recreational blueways to power economic revitalization," he said. (See related article on AGO on page 8.)

Salazar continued, "Projects were selected in concert with governors, tribal leaders, private landowners, and other stakeholders, and were evaluated based on the level of local support, the ability of states and communities to leverage re-sources, and the potential to conserve important lands and promote recreation."

The Obama administration began the fiscal 2013 campaign February 13 by proposing a budget that gives considerable emphasis to conservation programs, and seeks status quo money for federal land management agencies.

This year's budget war promises to be a reprise of fiscal 2012. In fiscal 2012 for instance, for federal land acquisition the 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.

This year the administration recommended far greater appropriations for LWCF than Hastings indicated House Republicans will accept. The fiscal 2013 budget asks for a \$258 million total for federal land acquisition, compared to the \$46.7 million the House Appropriations Committee approved last summer.

For the state side of LWCF the administration recommended \$60 million, compared to the zero money the House committee approved last year. For wildlife conservation grants the administration recommended \$61.3 million, compared to the \$22 million the House committee recommended last year.

When it comes to conservation spending a broad coalition of outdoor

groups supports the administration. In an annual *Green Budget* 35 national groups recommended full LWCF funding of \$900 million.

The coalition argued that Congress has failed to fulfill its side of the 1964 law that set aside offshore oil and gas revenues for LWCF in a discrete fund. The Interior Department budget request estimated the government has collected \$33.5 billion for the fund but has not spent \$17.7 billion of that.

The groups contend, "This chronic underfunding has led states and federal land management agencies to postpone or cancel many important projects, leading to incompatible development and missed opportunities to enhance public access to parks and open spaces."

In the annual appropriations scrum Republicans and Democrats generally agree that Congress should provide an adequate spending base for federal land management agencies. However, there are holes in that assumption in the fiscal 2013 budget request.

For instance for Park Service operations the administration would roughly hold the line, recommending \$2.250 billion, or \$10 million more than the fiscal 2012 appropriation of \$2.240 billion. But elsewhere in the NPS budget the administration would trim spending, such as for construction and heritage areas.

Overall, the National Parks Conservation Association complains, the budget would slash \$20 million from the parks. "In one breath the budget reveals a cut of more than 200 positions, yet in the next it cites data showing that every two Park Service jobs yields one job outside the Park Service," said Craig Obey, senior vice president of NPCA for government affairs. "We need actions to speak louder than words - park rangers, interpreters, and maintenance staff are the people who make sure visitors have a great experience and those jobs help create other jobs in so many communities."

National Forest System recreation

is in for a substantial reduction. The administration recommended \$267 million, or \$14 million less than the fiscal 2012 appropriation of \$281.6 million.

Transportation: In a separate area the administration picked a major fight with Congress by repeating its demand for a \$526 billion, six-year surface transportation law with significant "livability" spending that includes park and rec programs. The \$526 billion works out to about \$88 billion per year. However, \$50 billion of the \$526 billion would be spent up-front from general revenues as an economic stimulus.

The House and Senate are now working on surface transportation bills (HR 7 and S 1813) that would provide just \$40 billion per year for two years (Senate) and five years (House). And the two bills would significantly reduce allocations to park and recreation programs. (See following two articles.)

The administration budget once again proposed within the transportation funding an emphasis on "livability," the grouping of housing, transportation and recreation programs under one program.

Said the fiscal 2013 budget request, "Fostering livable communities – places where coordinated transportation, housing, and commercial development gives people access to affordable and environmentally sustainable transportation – is a transformational policy shift."

The budget trigger: Looming over the appropriations process is the failure of a high-powered Congressional budget committee to reach agreement on long-term spending in November. The panel was authorized by a major budget law (PL 112-25 of Aug. 2, 2011).

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 threatening Congress and the administration 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 later.

A large coalition of conservation groups raised alarms about the impact of the projected January 2013 budget cuts in their *Green Budget*.

"Allowing funding levels to be severely cut would leave critical natural resource programs unable to manage day-to-day operations. Therefore, the upcoming fiscal year 2013 budget spending levels are critical to protect the economic benefits of efficient and valuable programs," said the groups including Defenders of Wildlife, Friends of the Earth and The Wilderness Society.

Riders: It's early in the game but legislative riders to spending bills are sure to be controversial again in fiscal 2013. For fiscal 2012 House Republicans backed a rider that would prevent the administration from withdrawing from mining one million acres of federal land near Grand Canyon National Park and a rider that would block the administration's "wild lands" program. The Grand Canyon rider was dropped but the wild lands rider was enacted.

The *Green Budget* sent out an early warning signal against riders. "This hijacking of the appropriations process must cease so that policy issues can be debated and voted on in their proper forum, allowing equally important budget decisions to be made on their own merits," said the conservation request.

Fiscal 2013 request: Here's what the Obama request for fiscal 2013 compared to fiscal 2012 numbers:

* LWCF FEDERAL: Request, \$258 million (BLM \$33.6 million, Fish and Wildlife Service \$106.9 million, NPS \$59.4 million, and Forest Service \$58 million). Fiscal 2012, \$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.

* LWCF STATE: Request, \$60

million. Fiscal 2012, \$45 million. Senate, \$45 million. House, nothing.

* FWS CONSERVATION GRANTS:

Request, \$61.3 million. Fiscal 2012, \$61.4 million. Senate, \$61.4 million. House, \$22 million.

* HISTORIC PRESERVATION FUND:

Request, \$56 million. Fiscal 2012, \$56 million. Senate, \$64 million. House, \$49.5 million.

* SAVE AMERICA'S TREASURES: No money. Fiscal 2012, No break-out. Senate, \$8 million. House, nothing.

* NPS OPERATIONS: Request, \$2.250 billion. Fiscal 2012, \$2.240 billion. Senate, \$2.230 billion. House, \$2.243 billion.

* NPS REC AND PRES: Request, \$52.1 million. Fiscal 2012, \$60 million. Senate, \$60 million. House, \$49.4 million.

* HERITAGE AREAS: Request, \$9.3 million. Fiscal 2012, \$17.4 million. Senate, \$17.4 million. House, \$9 million.

* NPS CONSTRUCTION: Request, \$131.2 million. Fiscal 2012, \$159.6 million. Senate, \$153 million. House, \$152.1 million.

* FS RECREATION: Request, \$267.1 million. Fiscal 2012, \$281.6 million. Senate, \$290.5 million. House, \$281.6 million.

* FS TRAILS: Request, \$82 million. Fiscal 2012, \$82 million. Senate, \$82.2 million. House, not clear.

* FOREST LEGACY: Request, \$60 million. Fiscal 2012, \$54 million. Senate, \$58 million. House, not clear.

* BLM RECREATION: Request, \$70.3 million. Fiscal 2012, \$67.5 million. Senate, \$68.7 million. House, \$67.6 million.

* FWS REFUGE MANAEMENT: Request, \$494.8 million. Fiscal 2012, \$486.5 million. Senate, \$483 million. House, \$455 million.

House approves highway money; roads bill still on deck

The House February 16 took the easier step of two toward moving a significant surface transportation bill before a March 30 deadline.

It approved a jumbo energy bill (HR 3408) that would supply some of the money needed to pay for highways, mass transit and recreation programs.

When the House returns next week it will face the far harder step - moving the surface transportation bill (HR 7) itself. That will be hard because of opposition from the right and left.

That opposition is prompting skeptics to repeat their assertion that Congress will in all likelihood be unable to pass a comprehensive new surface transportation bill in 2012. "I still can't see any bill being enacted this year," said Derrick Crandall, president of the American Recreation Coalition.

Always the optimist on surface transportation matters, Sen. James Inhofe (R-Okla.) said February 17 he thought the Senate, at least, would pass a bill, if not reach a final agreement with the House. The Senate last week began debate on a counterpart to the House bill (S 1813).

That prompted Inhofe to say, "We have already reached some important milestones in a bipartisan fashion and I'm confident that if we continue in this manner, we can get the job done." (*We have included a comparison of the rec programs in the House and Senate bills in this article, but see the following article on the Senate political situation.*)

Before the House addressed the energy bill two major park and rec amendments of interest were introduced - one to allow uranium mining near Grand Canyon National Park and one to protect the Land and Water Conservation Fund (LWCF). Neither was approved.

Grand Canyon: Three Arizona House

members unsuccessfully attempted to push through the floor February 16 an amendment to prevent the withdrawal from uranium mining of one million acres near Grand Canyon National Park.

The House Rules Committee held the amendment out of order, preventing House consideration.

Reps. Trent Franks (R-Ariz.), Jeff Flake (R-Ariz.) and Paul Gosar (R-Ariz.) introduced the amendment to prevent the Interior Department from withdrawing the public lands for 20 years. (See separate article page 12.)

LWCF: Rep. Rush Holt (R-N.J.) offered on the House floor and then withdrew an amendment to HR 3408 that would guarantee that nothing in the bill would reduce allocations from offshore oil and gas royalties to LWCF. Those royalties have built up a \$17.7 billion balance in the fund.

"Our amendment would stipulate, simply, that nothing in the bill would reduce the amount of revenue from oil and gas receipts available for deposit into the LWCF," said Holt.

House Natural Resources Committee Chairman Doc Hastings (R-Wash.) assured him that that "you can look with a magnifying glass through this whole bill and you will see absolutely no mention whatsoever of (LWCF)." At that Holt withdrew his amendment.

House floor next week: When the full House takes up the transportation portion of HR 7 next week, recreationists will back an amendment that would (1) mandate a continued 10 percent transportation enhancements allocation under the Surface Transportation Program (something more than \$600 million per year) and (2) reinstate the Safe Routes to Schools program at its former funding level (about \$200 million per year).

The amendment is sponsored by Reps. Tom Petri (R-Wis.), Timothy Johnson (R-Ill.) and Dan Lipinski (D-Ill.) It was defeated in the House Transportation Committee February 13 by a 27-to-29 vote.

HR 3408 would do four things: open to oil and gas leasing the coastal plain of the Arctic National Wildlife Refuge, expedite oil shale development on federal land, accelerate offshore oil and gas lease sales, and authorize construction of a Keystone Pipeline through the middle of the country.

The Obama administration in a Statement of Administration Policy (SAP) February 14 promised a veto of the legislation, assuming HR 3408 will be wrapped into HR 7.

"Unfortunately, the bill includes pay-fors that open up pristine natural habitats not suitable for resource extraction and undermine prudent development of the Nation's oil and natural gas resources by opening the Arctic National Wildlife Refuge to industrial development, mandating lease sales in new offshore areas with no Secretarial discretion for determining which areas are appropriate and safe for such exploration and development, and preempting a Bureau of Land Management environmental impact statement on oil shale extraction," said an Office of Management and Budget statement.

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 the energy bills approved by the House February 16. However, House Democrats say that the legislation would provide only \$5 billion, and that over 10 years.

On paper the House and Senate have until March 30 to complete a bill. That's when a temporary extension of the old surface transportation law expires. But odds are good that another extension will be needed, perhaps for a couple of years.

House rec provisions: Here are some of the main recreation provisions in HR 7 as passed by the House Transportation Committee February 13

and in S 1813 as approved by the Senate Environment and Public Works Committee February 6:

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 for money with dozens of other programs.

In addition the House bill would eliminate five (of 12) eligible TE 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 guaranteed 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, again, it would force TEs to compete against numerous other programs from communal pots of money. 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 for money held in a Transportation Mobility Program with 26 other programs, some recreation and some not.

The National Trust for Historic Preservation warned its members last week, "This bill puts preservation on the chopping block with a provision that eliminates historic preservation activities from eligibility within the (TE) program, one of the most successful preservation programs in existence."

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.

Sen. Amy Klobuchar (D-Minn.) has proposed an amendment to the Senate bill that would allocate \$85 million per year to RTP, as the House bill would.

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 side 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.

Rec allies ready amendments to Senate highway bill

Several senators drafted pro-recreation amendments to a massive two-year surface transportation bill (S 1813) in mid-February as the Senate began the grueling work of passing the bill. Those amendments are expected to come up for consideration next week.

Perhaps the strongest amendment came from Sen. Amy Klobuchar (D-Minn.) It would guarantee \$85 million per year for the Recreational Trails Program (RTP). As passed by the Senate Transportation Committee February 6 the bill would force RTP to compete with a host of other programs for money from state highway departments.

The BlueRibbon Coalition, a powered recreation group, sent out a bulletin to its members, "We have good news to report! Minnesota Sen. Klobuchar is planning to offer an amendment to the Senate transportation spending bill that would fully restore RTP funding. This is huge news. If successful, both the House and Senate spending bills will protect the RTP program. At least for the time being!"

The House Transportation Committee approved a counterpart bill (HR 7) February 13 with the \$85 million RTP set-aside. *(See previous article).*

Other amendments pending on the Senate floor would: give smaller cities a shot at trails money, require two percent of Surface Transportation Program money be set aside for

pedestrian and bicycle projects, guarantee funding for mass transit in the parks, and allow air tours over Grand Canyon National Park to exceed past sound limits.

The Senate and House are right now going all out to complete multi-year surface transportation bills because a temporary extension of the old law expires March 31. The Senate Environment and Public Works Committee approved the Senate bill February 6. The House Transportation Committee approved its version of a bill (HR 7) February 13. The House bill is scheduled for floor action next week.

The two measures are significantly different, both overall (Senate two years, House five years) and for recreation programs (Senate is more generous).

The Obama administration has endorsed the Senate bill and condemned the House bill. The Office of Management and Budget (OMB) said of the Senate measure February 9, "This legislation will provide more certainty to States and localities as they undertake the long-term planning and execution of projects and programs that are essential to creating and keeping American workers in good paying jobs, improving the Nation's surface transportation infrastructure . . ."

The House and Senate bills share one problem - they are each about \$12 billion per year short of revenues needed to implement the legislation.

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.

Although neutral observes doubt Congress will be able to complete a huge transportation bill in an election year without money to pay for it, ranking EPW minority member James Inhofe (R-Okla.) remains determinedly optimistic. "We have already reached some important milestones in a bipartisan fashion and I'm confident that if we continue in this manner, we can get the job done," he said just before Congress left for a week's vacation February 17.

The Senate committee bill would cut back on rec programs, although not as severely as the House. The Senate would not eliminate all recreation programs altogether but would terminate their set-aside status. Such programs as transportation enhancements, 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. (See bill analysis at the end of the previous article.)

Here are some of the floor amendments that senators have introduced:

RECREATIONAL TRAILS - KLOBUCHAR SA 1661: The amendment, with four sponsors including two Republicans, would simply extend RTP as a set-aside program at \$85 million per year. The House bill also guarantees the \$85 million. The amendment would technically not cost anything in that the program is financed by gasoline taxes on outdoor machinery.

SMALL CITY TRAILS MONEY - CARDIN SA 1549: The amendment from Sens. Ben Cardin (D-Md.) and Chad Cochran (R-Miss.) would give cities below one million in population an opportunity to compete for broad categories of funds within a state. The amendment does not address individual rec programs but requires a fair distribution of general funds. The National Recreation and Parks Association and the Rails to Trails Conservancy back the amendment.

BIKE-PEDESTRIAN SET-ASIDE - MERKLEY SA 1605: The amendment from Sens. Jeff Merkley (D-Ore.) and Bernie Sanders (D-Vt.) would require states to allocate at least two percent of Surface

Transportation Program money to bike and pedestrian projects.

MASS TRANSIT IN PARKS - REID SA 1633: The amendment from Senate Majority Leaders Harry Reid (D-Nev.) would set aside \$26.9 million per year for a mass transit in the parks program. This would extend an existing program.

GRAND CANYON/ALL PARKS OVERFLIGHTS - MCCAIN SA 1669: The amendment from Sen. John McCain (R-Ariz.) and Majority Leader Reid would authorize the Federal Aviation Administration to ignore environmental recommendations in a 1987 Grand Canyon overflight law. At the same time the amendment would require planes over all parks to adopt quiet aircraft technology.

White House sets AGO update meeting; WGA to hold confab

The White House - or at least its Council on Environmental Quality (CEQ) - has not forgotten about the President's premiere conservation initiative - America's Great Outdoors (AGO).

CEQ has scheduled a national conference on implementation of the initiative for Friday, March 2 at the Interior Department. It is by invitation only.

Among other things the conferees are expected to assess the impact of recreation on the economy.

In a closely-related development the Western Governors' Association will focus on its Get Out West! campaign at its annual meeting June 9-12 at Cle Elum, Wash. Washington Gov. Chris Gregoire (D) has made visitation to the West for outdoor recreation her signature issue as chairman of the association.

In an agenda that sounds quite similar to the AGO agenda, the association said, "Among other issues, we will discuss strategies for growing the West's tourism and recreation industries that will help our states create jobs and enhance economic opportunities across the

region; connecting young people and their families to our great outdoor places; and harnessing domestic energy resources."

Said Mark Rupp, Washington, D.C. director for the State of Washington and key staffer for the Get Out West! campaign, "We're hoping to have some deliverables in terms of our partnership with the Outdoor Industry Association and the Motorcycle Industry Council. We are working on a study on the economic impacts of outdoor recreation."

Rupp said Get Out West! may already be paying off because of a major push by western governors in December for expanded international visitation. On January 19 the White House responded by launching a government-wide campaign to attract foreign tourists to the United States.

The White House conference will be hosted by CEQ. Expected attendees include Secretary of Interior Ken Salazar, Secretary of Agriculture Tom Vilsack, EPA Administrator Lisa Jackson and Assistant Secretary of the Army Jo-ellen Darcy.

The AGO report, published Feb. 16, 2011, recommends a broad range of programs to implement the administration's recreation agenda, beginning with full funding for the Land and Water Conservation Fund.

At the federal level the report tasked CEQ with coordinating the follow-up by 15 federal agencies through a Federal Interagency Council on Outdoor Recreation. The council is headed by CEQ Chair Nancy Sutley.

Obama Cabinet members, particularly Salazar, have promoted AGO each time they announce a project over the last year. At a February 15 hearing on the Interior Department budget Salazar said the budget asks \$5.1 billion to implement AGO.

He told the House Natural Resources Committee, "Through America's Great Outdoors initiative, the Administration continues to expand opportunities for recreation - through

partnership with states and others and the promotion of America's parks, refuges, and public lands. The 2013 budget requests \$5.1 billion in support of this initiative, a \$145.6 million increase compared to 2012. Funding is focused on programs supported through the Land and Water Conservation Fund, land management operations, and other grant and technical assistance programs that promote conservation and improve recreational access."

In October 2011 the administration published a progress report on implementing AGO. It described success in both broad agency-wide wide initiatives as well as smaller specific projects.

The AGO website is at, www.americasgreatoutdoors.gov.

Area-wide federal rec fees rebuffed by appeals court

A federal appeals court early this month held that the Forest Service practice of charging fees to enter high impact recreation areas (HIRAs) is largely illegal.

The Ninth U.S. Circuit Court of Appeals panel said Congress was clear in saying that the agency could charge fees to enter developed recreation sites but could not charge for entering larger areas that include developed sites.

In biting language the three judges said, "In sum, the statutory language is clear. The Forest Service's interpretation is thus entitled to no deference."

The decision, written by Judge Robert W. Gettleman, explains, "As alleged by plaintiffs, the Forest Service's fee structure at the Mount Lemmon HIRA (in Arizona) does not comport with the REA's express prohibition on charging fees for parking and then hiking through the HIRA without using the facilities and services, camping in undeveloped areas, or picnicking on roads or trailsides. The district court thus erred in dismissing plaintiffs' claim."

The Western Slope No-Fee Coalition, which has led the opposition to forest access fees and worked on the Arizona case, exulted. President Kitty Benzar said, "Millions of Americans will once again be free to go for a walk in their national forests, which they jointly own and which have been maintained by their tax dollars for over a century, without being ticketed by Forest Service staff."

The REA, sometimes known as the Federal Lands Recreation Enhancement Act (FLREA) of 2004, authorized the Forest Service and other federal land management agencies to collect fees for developed recreation sites.

But in implementing the law the Bush administration began collecting fees to enter areas with developed sites, even if the visitor didn't use the developed sites.

Gettleman presented the Forest Service argument this way before knocking it down: "The Forest Service also maintains that the latter part of § 6802(d)(1)(A), which prohibits fees 'solely for . . . picnicking along roads or trailsides,' clearly permits fees for road or trailside picnics that take place within a larger area (delineated by the Forest Service) if that larger area offers amenities."

He then said, "The REA does not say that. It provides simply and unambiguously that the Forest Service cannot collect a standard amenity fee from someone who picnics on a road or trailside, even if that picnic occurs within an 'area' that has amenities."

The court's holding may be academic because the Forest Service in December issued new policy recommendations to the field that, if followed, would essentially eliminate fees for HIRAs.

The Forest Service changed its policy in a series of notices to regional offices. The change comes after five years of criticism of HIRAs from recreationists and Congressmen from both political parties.

Benzar of the Western Slope No-Fee Coalition said she suspects the Forest Service made the change to eliminate HIRAs because the agency knows that FLREA expires on Dec. 8, 2014. And Congress may change the law.

The fiscal 2011 administration budget projected that FLREA would produce \$264.5 million, with 80 percent retained by the agencies. The lion's share, \$173 million, was to be collected by the Park Service, followed by the Forest Service with \$67.5 million, the Bureau of Land Management with \$18.7 million, the Fish and Wildlife Service with \$4.8 million and the Bureau of Reclamation with just under \$500,000.

In the last Congress four western senators - two from each party - introduced legislation (S 868) that would repeal FLREA. The four are Montana Sens. Max Baucus (D) and Jon Tester (D) and Idaho Sens. Mike Crapo (R) and James E. Risch (R).

House committee approves FS cabin fee bill second time

A House committee February 16 once again approved legislation that would establish a new fee schedule for cabin owners on national forest lands.

This time the House Natural Resources Committee attached the cabin fee legislation to a larger, must-pass bill (HR 4019). The main thrust of HR 4019 is to authorize billions of dollars to compensate western counties for the federal lands within their boundaries.

However, HR 4019 is controversial because it would expand commercial uses of the public lands to raise money for counties. The Obama administration and House Democrats believe those uses could damage the environment.

When the House committee held a hearing on a draft of the county revenues bill on Sept. 22, 2011, the Obama administration criticized it. Under Secretary of Agriculture of Agriculture Harris Sherman said the bill would "weaken long-standing environmental protection," "result in

a diminution of multiple uses which are likely to impact recreation, wildlife and other important uses of the national forests" and "complicate the federal deficit problem, rather than improving it."

The cabin fee provision itself is not controversial. When the House committee first approved the fee schedule as HR 3397 Nov. 17, 2011, it did so unanimously.

The measure is also alive in the Senate. On Nov. 18, 2011, six senators from both parties introduced a counterpart bill (S 1906) with only minor differences from the House bill.

Under the existing law - the Cabin User Fee Fairness Act of 2000 - the Forest Service in 2007 began reappraising cabins, based on five percent of the market value. Because some cabins had not been appraised for as much as 30 years the appraisals went through the roof. Congress did set a 25 percent ceiling on the annual increase in calendar year 2009.

So western senators and House members went to work with gateway communities and the 14,000 cabin owners to devise a fee system that would avoid huge fee increases but still insure the public receives a fair return on their property. It costs the Forest Service in the neighborhood of \$10 million per year to manage the program.

Both the House and Senate bills would do the same thing - establish nine tiers of fees beginning at \$500 per year and increasing by \$500 increments to a top fee of \$4,500.

The Senate bill, introduced by lead sponsor Jon Tester (R-Mont.), estimates that eight percent of cabin owners would have to pay just the \$500 per year fee and seven percent, or 980, would have to pay \$4,500.

10th Circuit backs roadless rule; Colorado plan on deck

The full Tenth U.S. Circuit Court of Appeals February 16 refused

to overturn a decision of a three-judge panel, upholding a 2001 Clinton administration roadless area rule. The three-judge panel on Oct. 21, 2011, had initially sustained the Clinton rule by throwing out a district court decision.

So now both the Tenth and the Ninth circuits have upheld the Clinton rule that limits road construction and timber sales on 49 million acres of national forest. The Obama administration has signaled it will implement the Clinton rule.

The State of Wyoming had asked the full Tenth circuit to block the Clinton rule. Gov. Matt Mead (R-Wyo.) said the state has not decided whether it will appeal to the U.S. Supreme Court. "I will review this decision with the Attorney General and decide on a course of action," he said in a statement.

Meanwhile, as the Forest Service nears completion of an exception to the Clinton rule - a roadless area policy tailored to national forests in Colorado - interest groups are getting in their final licks.

Most vociferously, a powerful coalition of conservationists and the recreation industry teamed up last week to demand that a Colorado-only rule be just as protective as a national rule. That national rule, issued by the Clinton administration in 2001, would largely ban road construction and timber sales in 49 million acres of national forest. The Colorado rule would exempt more than 400,000 acres from the Clinton standards.

The coalition includes the Outdoor Industry Association and the Theodore Roosevelt Conservation Partnership. The coalition posted a three-quarters page ad in the *Denver Post* February 7 that asked President Obama to follow their recommendations.

The ad reads: "[Y]our proposed plan for Colorado's roadless forests would open pristine habitat to commercial development, such as road-building, drilling and power line construction. As drafted, it threatens the state's best backcountry and multi-

billion dollar outdoor recreation industry."

The rule, as proposed by the Obama administration on April 15, 2011, would protect 4.18 million acres of the 14.5 million acres of national forest within the state.

The draft EIS looks at four alternatives: (1) the Clinton rule that would protect 4.433 million acres, (2) the new draft that would protect 4.186 million acres, (3) existing forest plan prescriptions and (4) additional upper tier protections.

Excepted from bans on development would be 20,000 acres to complement existing coal mining operations, unspecified acreage for forest thinning operations near the urban interface and unspecified acreage for water projects.

The Forest Service (and the Obama administration) are trying to wrap up a Colorado-only roadless rule just as the federal appeals courts are finally in agreement in support of the Clinton rule.

While the Clinton rule protects 49 million acres, an Idaho-specific rule exempts an additional 9.5 million acres from it.

Loose ends remain in three states, counting the Colorado proposal. In Idaho environmentalists have sued to undo the Idaho exemption rule. And in Alaska a federal court order included the Tongass National Forest in the national rule against the wishes of the state.

Forty western Republican House members and six senators have introduced major bills (HR 1581 and S 1087) to revoke the Clinton rule. The lead sponsors are House Majority Whip Kevin McCarthy (R-Calif.) and Sen. John Barrasso (R-Wyo.) But more than 100 House members and 20 senators introduced legislation (HR 3465, S 1891) in November to codify the roadless rule. The principal sponsors of S 1891 and HR 3465 were Sen. Maria Cantwell (D-Wash.) and Rep. Jay Inslee (D-Wash.)

Grand Canyon mining backers fail to move House rider

Three Arizona House members unsuccessfully attempted to push through the floor February 16 legislation to prevent the withdrawal from uranium mining of one million acres near Grand Canyon National Park.

They had offered the rider as an amendment to a bill (HR 3408) that would provide money from federal lands energy development to finance a surface transportation law.

The House Rules Committee ruled the amendment out of order, preventing House consideration. But the proposal gave notice that opponents of the withdrawal will continue to seek ways to block it.

Reps. Trent Franks (R-Ariz.), Jeff Flake (R-Ariz.) and Paul Gosar (R-Ariz.) introduced the amendment to prevent the Interior Department from withdrawing the public lands for 20 years. On January 9 Secretary of Interior Ken Salazar had executed the withdrawal that the Republicans were trying to overcome.

The Republicans pulled back in the face of determined opposition from Democrats and environmentalists. Said amendment critic Rep. Raúl M. Grijalva (D-Ariz.), "The Grand Canyon is at the heart of soul of Arizona, and I just can't understand how an Arizonan could be so determined to jeopardize something so central to our state. Mining near the canyon puts our health, economy and future at stake."

The Republican amendment represented the second attempt in this Congress to block the withdrawal. The House Appropriations Committee last July approved a fiscal year 2012 Interior and Related Agencies appropriations bill (HR 2584) that would have blocked it. But a House-Senate conference committee in December struck the provision.

In addition five western Republican senators and nine House members introduced legislation (HR 3155, S 1690) in October that would block the withdrawal. Those bills have not moved.

Federal courts may ultimately have the last word, but Secretary of Interior Ken Salazar January 9 withdrew from uranium mining for 20 years one million acres of public land near Grand Canyon National Park.

The withdrawal prevents the filing of new mining claims on the lands managed by the Forest Service and the Bureau of Land Management (BLM), but it does not necessarily prevent the mining of existing claims.

Salazar said the long-term withdrawal - which replaces a short-term withdrawal - was necessary to protect Grand Canyon. "We have been entrusted to care for and protect our precious environmental and cultural resources, and we have chosen a responsible path that makes sense for this and future generations," he said.

But Pamela Hill, executive director of the industry group the American Clean Energy Resources Trust, has told us that either her group or individual mining companies will go to court to try to block the withdrawal.

The million acres in question were first closed to new mining claims by a July 21, 2009, segregation notice. The notice had been scheduled to expire on July 20, 2011, but Salazar imposed an interim, six-month withdrawal. The interim withdrawal was designed to provide time for the Interior Department to complete an EIS to back the 20-year withdrawal.

BLM estimates 3,200 claims are located in the withdrawn area and, perhaps, could someday be mined. "The withdrawal does not prohibit previously approved uranium mining, new projects that could be approved on claims and sites with valid existing rights," said the Interior Department.

Much of the debate about mining near Grand Canyon focuses on the meaning of the Arizona Wilderness Act of 1984 (PL 98-406). Sen. John McCain (R-Ariz.), among others, argues the act represented an agreement among all parties that the 1 million acres would be made available for multiple uses,

including uranium mining. In return Congress designated 250,000 acres of wilderness along the strip.

Notes

Conservation easements gain.

Three hundred House members have now cosponsored legislation (HR 1964) that would authorize landowners to take a large tax deduction for dedicating their property to conservation easements. The bill would revive an old law that expired at the end of 2011. Said chief sponsor Jim Gerlach (R-Pa.) February 17, "With the support of nearly three-quarters of the House, I am hopeful that conservation easements will remain an option for all property owners." According to the sponsors the legislation would (1) allow farmers and ranchers to deduct 100 percent of their gross income from federal income tax for donating a conservation easement, (2) allow all landowners who donate easements to deduct 50 percent of their gross income from federal taxes and (3) allow the landowners to take the deductions for 16 years. The sponsors say the legislation gives landowners time to work out easement donations with land trusts and other groups. Sen. Max Baucus (D-Mont.) and 14 other senators have introduced a counterpart bill (S 339). No action has been taken on the legislation in the House or Senate. But supporters are hopeful. Said Russ Shay, director of public policy for the Land Trust Alliance, "We are exploring all options on the House side. For the past decade most tax measures have passed in big packages. But, as we just saw with the payroll tax bill, the depth of disagreement over how to pay for tax cuts becomes even greater when there is a lot to pay for."

No guns in parks bill back.

Rep. Jim McDermott (D-Wash.) and nine cosponsors introduced legislation (HR 4063) February 16 that would forbid visitors to national parks and wildlife refuges from carrying loaded weapons. The bill would repeal a law (PL 111-24 of May 22, 2009) that authorized concealed weapons in national parks and refuges where the applicable state allows concealed weapons in state parks and refuges. That's most of them. At

the time the House by an overwhelming 279-to-147 vote and the Senate by a 67-to-29 vote approved the use. So how do McDermott and friends expect to overturn so large a vote? Perhaps because of the fatal shooting of a Park Service ranger January 1 in Mount Rainier National Park. "The dreadful and deeply saddening event that occurred at Mount Rainer makes me question why on earth people should be allowed to carry loaded weapons in our national parks," said McDermott. "Millions of families visit our national parks, historic sites and monuments every year to see our nationally protected sanctuaries and learn about our nation's history. Why anyone should need or be allowed to carry a loaded firearm in our national parks simply doesn't make sense to me." The meat of the McDermott bill is short: In one sentence it repeals the 2009 law, thus reinstating former NPS regulations banning concealed weapons. No Republicans in the Republican-majority House cosponsored the bill.

Boxscore of Legislation

APPROPRIATIONS FISCAL 2013.
Administration submitted its requests February 13. Would sustain current spending for both conservation and land management.

APPROPRIATIONS FISCAL 2012 (INTERIOR, ETC.)
HR 2584 (Simpson). President signed into law December 23 as PL 112-74. Would roughly maintain most outdoor programs and agency budgets at fiscal 2011 levels.

APPROPRIATIONS FISCAL 2012 (AGRICULTURE)
HR 2112 (Kingston). President signed into law Nov. 18 as PL 112-55. Reduces Farm Bill conservation spending.

APPROPRIATIONS FISCAL 2012 (ENERGY AND WATER)
HR 2018 (Frelinghuysen). President signed into law December 23. Does not include rider to block wetlands policy.

APPROPRIATIONS FISCAL 2012
(TRANSPORTATION)
No bill number. President signed into law Nov. 18 as PL 112-55. Maintains

highway spending at about fiscal 2011 levels

SURFACE TRANSPORTATION. HR 7 (Boehner), S 1813 (Boxer). House committee approved February 13. Senate committee approved February 6. Both would reduce funding for park and rec programs, the House more significantly.

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

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

URBAN PARKS
HR 709 (Sires). Sires introduced February 15. Would provide \$450 million per year to rehabilitate urban parks.

ROADLESS AREAS NO
HR 1581 (McCarthy), S 1087 (Barrasso). McCarthy introduced April 15. Barrasso introduced May 26. Would reverse Clinton roadless rule, block Salazar 'wild lands' policy, release FS and BLM roadless areas.

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

NATIONAL MONUMENTS
HR 302 (Foxx), HR 758 (Herger), S 407 (Crapo). House hearing September 13. Foxx would require state approval of any national monument under Antiquities Act. Herger, Crapo would require Hill approval within two years.

CALIFORNIA DESERT MONUMENT
S 138 (Feinstein). Feinstein introduced January 25. Would designate a Mojave National Monument and protect 1.6 million acres of desert.

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