

Federal Parks & Recreation

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In this issue. . .

Little progress in roads confab.

*Conferees make opening speeches.
Boxer and others optimistic.
Mica lays down tough demands.
Hastings blasts LWCF. Inhofe,
Blumenauer positive on TEs.. Page 1*

Hill rushing packhorse bill.

*House passes bipartisan bill to
approve use in Sequoia. Lawsuit
against plan blocks use..... Page 4*

AGO projects keep popping up.

*DoI strikes deals that may lead
to huge Denver greenway and to
S.D. Indian National Park... Page 5*

Wetlands permit-limit returns.

*House appropriators approve for
third year in E&W money bill.
Would block Obama policy.... Page 7*

Colorado roadless rule is near.

*Regs predicted within 30 days.
Rec interests are lukewarm, ask
broader land protections.... Page 8*

NPS Centennial initiative stirs.

*Legislation may be in works.
PR firm may be hired. Bipartisan
national survey in works.... Page 10*

Hatteras, Biscayne plans faulted.

*House GOP gives notice it will
scrutinize access limits ... Page 11*

Arizona monument runs against tide.

*Conservationists propose in face
of anti-monument sentiment.. Page 12*

Notes..... Page 14

Conference calendar..... Page 16

Highway bill conference gets off to uncertain beginning

A House-Senate conference committee with *potentially* profound implications for park and recreation policy began inconclusively May 8. The conferees did little more than make speeches.

But those speeches reinforced the great gulf between a Senate-passed bill (S 1813) and a House Transportation Committee bill (HR 7), both in program substance and in financing of the legislation.

In shorthand the Senate bill would roughly maintain funding for traditional recreation-related transportation programs - transportation enhancements, Recreational Trails Program, Safe Routes to School and federal land roads. The House committee bill would either eliminate outdoor programs altogether or force them to compete with other programs for scarce allocations.

In addition a sleeper provision in the Senate bill would provide \$700 million per year for fiscal years 2013 and 2014 for the Land and Water Conservation Fund (LWCF). The LWCF money is included in a section of S 1813 that would use compensation from the BP Deepwater Horizon compensation to restore the Gulf. However, the guaranteed LWCF money would come from its traditional offshore oil and gas royalty fund and not from the restoration fund.

Sen. Barbara Boxer (D-Calif.), conference chair, was optimistic the House and Senate would reach agreement on a bill this summer. "Now some pundits and experts have predicted gloom and doom when it comes to this bill. They were wrong in the past, and they are wrong now. This is our job, and we

will do it. We have the wind at our backs, because we have a Senate bill that is a reform bill that received 74 votes in favor." She chairs the Senate Environment and Public Works Committee.

Her House counterpart, House Transportation Committee Chairman John Mica (R-Fla.), was more confrontational. Although he said, "I think we can get this done," he also laid down the gauntlet.

"I'm here to say let's not just spend more money or throw money at problems," he said. "Let's get serious reforms that get people working. Let me set some markers out here. We're going to have to pay for this and pay for it responsibly. We're not going to raise taxes . . . We can't add to the federal bureaucracy. We have to cut red tape and streamline the process . . . We need to eliminate some of the duplicative programs we have."

The LWCF provision came under serious attack from House Natural Resources Committee Chairman Doc Hastings (R-Wash.), a senior member of the conference. "The mandatory buying of more land under LWCF is a fiscal dereliction of duty - especially since the government can't afford to maintain the lands it already owns," he said. "The maintenance backlog on America's federal lands registers in the multiple billions of dollars. Congress should be addressing this backlog, not adding to it."

Besides, said Hastings, LWCF has nothing to do with the BP oil spill RESTORE program. "LWCF is unrelated to the RESTORE Act and totally unrelated to the highway bill," he said. "With nearly three years to go until LWCF expires, and the fact that not one committee hearing in either chamber has even been held on renewing LWCF, there is more than ample time to consider this topic. It should not be blindly reauthorized in this conference report."

Despite that blast conservationists were optimistic that the Senate conferees would defend the LWCF provision. Said Alan Rowsome, who handles budget issues for The Wilderness

Society, "Obviously the (Senate floor) vote on the LWCF amendment puts us in a pretty strong position. The Senate members feel pretty strongly about it. I think LWCF stands a pretty good chance." The LWCF provision was added to S 1813 by a 76-to-23 vote March 14.

Another outdoor program - transportation enhancements (TEs) - received backing of a sort from a persistent critic, Sen. James Inhofe (R-Okla.), ranking Republican on the Senate Environment and Public Works Committee.

At the conference he first criticized allocating two percent of highway money to TE. "You have to keep in mind that people out there paying their taxes expect it should be going to roads, highways and bridges and not to environmental enhancements," he said.

But, he added, "The compromise (the Senate) came up with satisfies everyone. If my State of Oklahoma doesn't want to spend two percent of its money categorized as enhancements it can use it for unfunded mandates or some other requirements."

Rep. Earl Blumenauer (D-Ore.) made a brief pitch for trail spending. "I hope that as the conference committee moves forward it can address issues such as preserving funding for bike lands and pedestrian walkways. . .," he said.

The conference was set up when the House April 18 approved a three-month extension bill (HR 4348) that would keep existing programs in effect through the end of September. A previous extension bill provides spending through the end of this month. On April 25 the House agreed to go to conference and on April 24 the Senate did the same. House Republican leaders have been unable to line up enough votes to push the transportation committee bill, HR 7, through the House.

The conferees did not formally agree to use the House committee bill, HR 7, in negotiations, rather than the stripped-down extension bill, HR 4348. However, Mica has repeatedly demanded that it be put on the table.

Complicating matters is a provision in HR 4348 that would order President Obama to approve a Keystone Pipeline from Canada down through the middle of the country.

On April 17 the White House threatened to veto any bill that would require approval of the Keystone Pipeline. The Office of Management and Budget in a position paper on HR 4348 said, "Because this bill circumvents a longstanding and proven process for determining whether cross-border pipelines are in the national interest by mandating the permitting of the Keystone XL pipeline before a new route has been submitted and assessed, the President's senior advisors would recommend that he veto this legislation."

So long-time players continue to predict that the House-Senate conference may fail to produce a multi-year bill and, instead, may simply extend the existing law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) for a year or so.

"If they can't find funding, then I think they will look at a 12-to-18 month extension of SAFETEA," said Derrick Crandall, president of the American Recreation Coalition. "It won't necessarily be at the Senate levels, but I don't think Republicans want to cut back funding for it."

Crandall said that, while the Highway Trust Fund can no longer pay for a year's worth of SAFETEA, it does contain enough gasoline tax money to keep programs going through the first quarter of 2013 before running out of money.

Meanwhile, House and Senate appropriators are beginning to address fiscal year 2013 surface transportation bills. The Senate Appropriations Committee approved its bill April 19 with a spending ceiling of \$53.4 billion, or almost \$4 billion less than the fiscal 2012 appropriation of \$57.3 billion. The House subcommittee on Transportation has not scheduled a mark-up yet, but the House 302(b) allocation

is \$51.6 billion, or \$1.8 billion less than the Senate allocation.

Most surface transportation money is guaranteed by the existing law - SAFETEA-LU. It authorized spending through fiscal year 2009, which ended on Sept. 30, 2009. SAFETEA has been kept alive since then through numerous temporary extensions. However, the appropriations bill actually spends the money.

Here's where the Senate stands compared to the House Transportation Committee bill on specific programs:

ENHANCEMENTS: The House committee bill would remove the existing \$900 million per year set-aside for transportation enhancements, but would allow the program to compete with other program for money from state highway transportation offices. The Senate bill would maintain guaranteed spending for the program at or about \$900 million for fiscal 2013 and 2014.

Said the Rails-to-Trails Conservancy in a bulletin to its members, "The bill will ensure greater local access to funds and a fair shot at approval for the most beneficial projects, and it preserves decision-making structures that enable public participation and well-balanced trail systems."

RECREATIONAL TRAILS: The House committee and the Senate committee are in rough agreement on setting aside \$85 million per year for the Recreational Trails Program.

The office of Sen. Amy Klobuchar (D-Minn.), the lead advocate for the program in the Senate, said the senator "has secured the continuation of the Recreational Trails Program as part of a larger Surface Transportation bill."

SCENIC BYWAYS: The House committee bill would eliminate the program. The House committee 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 bill would allow the scenic byways program to compete for money from

either a Transportation Mobility Program or from transportation enhancements.

FEDERAL LANDS 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 bill would also keep federal and Indian land roads alive with an annual allocation of \$1 billion. Of that \$260 million would be allocated to national park and national wildlife refuge roads.

NATIONAL PARKS OVERFLIGHTS: No comparable House provision. The Senate bill would limit environmental restrictions in an upcoming Grand Canyon National Park air tour management plan. The park tells us the final plan should be completed this spring or summer.

The bill says, "None of the environmental thresholds, analyses, impact determinations, or conditions prepared or used by the Secretary to develop recommendations regarding the substantial restoration of natural quiet and experience for the Grand Canyon National Park required under section 3(b)(1) of Public Law 100-91 shall have broader application or be given deference with respect to the Administrator's compliance with the National Environmental Policy Act for proposed aviation actions and decisions."

Public Law 100-91 is the National Parks Overflight Act of 1987, which required the air tour plan. Sen. John McCain (R-Ariz.) and Senate Majority Leader Harry Reid (D-Nev.) prepared the Senate provision.

Politicians work together to extend horse packer access

A long-simmering dispute over horse packing in Sequoia and Kings Canyon National Park wilderness areas has reached Congress.

The House approved legislation April 27 without opposition that would authorize the practice to continue for 2012 and 2013, overcoming a federal court order blocking the use. The court said simply that the Park Service failed to prove the use was a "necessity" under a general management plan.

The court order touched off a flurry of activity to preserve the packers' tourist season with both the plaintiffs and the Park Service proposing plans to allow the use to continue. However, the plaintiffs, the High Sierra Hikers Association, would place new curbs on the use in their proposal.

The dispute may come to a head shortly, either in Congress or in the courts. Both House Republicans and Democrats from California are asking the Senate to move the House-passed bill (HR 4849) promptly. And U.S. District Court Judge Richard Seeborg in the Northern District of California has scheduled a hearing for May 23.

For a decade hikers and environmentalists have fought over the use of packhorses to carry tourists into the backcountry, not only in Park Service wilderness but in national forests and in national wildlife refuges. The critics argue that the horses damage sensitive areas, including meadows.

In an earlier lawsuit, *High Sierra Hikers v. Blackwell*, No. 02-15504, the Ninth U.S. Circuit Court of Appeals on Aug. 25, 2004, held that the Forest Service erred in granting permits for commercial packhorse use without preparing environmental documentation first.

In 2009 the same group, High Sierra Hikers, filed a lawsuit in federal court that argued NPS in authorizing packhorses in Sequoia and Kings Canyon didn't comply with a general management plan (GMP).

Judge Seeborg agreed, holding, "Here, the NPS admits to promulgating the GMP without this requisite balancing. It does not argue that

its analysis was adequate or that its evaluation concluded that preexisting commercial activity was necessary. Rather, it simply states that the agency is currently conducting a finding of necessity and a determination is forthcoming in a (Wilderness Stewardship Plan)."

Seeborg said NPS did not produce the necessity finding. "Pursuant to the Wilderness Act, a necessity finding is required," he concluded. "Because the NPS has yet to complete this finding, the GMP violates the Act."

Enter Congress. On April 27 the House approved HR 4849 with support from Republicans and Democrats. Said House Natural Resources Committee Chairman Doc Hastings (R-Calif.) of the judge's order, "Unfortunately, this not only means the loss of hundreds of jobs, it also canceled long-planned family vacations into the outdoors."

Echoed Rep. George Millers (D-Calif.), "The high country wilderness in the Sierra is one of the premier experiences the National Park System has to offer, and for many, the only way to have this experience is through use of pack animals for whatever personal reasons, either frailty or age - age would be my reason."

Miller concluded, "I hope the Senate will be able to take this up by unanimous consent quickly so, again, the people planning to take the trips will have certainty, the packers will have certainty, and the surrounding business around Sequoia-Kings Canyon Park will have certainty that the summer trade will be there."

Facing the prospect of an economic disaster in the local economy and criticism from both the left and right because of the lawsuits, the High Sierra Hikers Association April 27 asked Judge Seeborg to allow some horse packing this year. That was the day of the House vote.

"The lawsuit we filed in 2009 makes crystal clear that we seek only reasonable limits and controls to protect these magnificent national

parks from harm," said Peter Browning, president of the hikers' group. "And we repeatedly have told both the Park Service and the court that we don't want the packers to be shut down."

The hikers said in a release they asked for minimal protections but NPS refused. "For example, the hikers' group requests that commercial packstock not be allowed to graze in the parks' most fragile high-elevation meadows. Such rules are already in place at other national parks," said the association.

The Park Service itself May 2 asked the court to allow it to issue commercial use authorizations effective immediately. In the meantime NPS is encouraging outfitters to apply for 2012 permits.

Salazar keeps AGO relevant with Denver, Badlands deals

Although the Obama administration's attempts to designate broad landscapes across the country as conservation areas have largely been thwarted, it keeps pushing smaller-focus projects.

As an example on May 4 Secretary of Interior Ken Salazar reached an agreement with Colorado Gov. John Hickenlooper (D) that could lead to a Rocky Mountain Greenway.

The agreement calls for the creation of a 10-member steering board to lead the effort to combine City of Denver parks with the Rocky Mountain National Park and three national wildlife refuges. The greenway would extend for hundreds of miles along the South Platte River and its tributaries.

A week earlier on April 26 Salazar announced that NPS had completed a management plan that recommends that a portion of Badlands National Park in South Dakota be converted to the nation's first tribal national park. Congress would have to first establish the Indian national park in legislation.

The plan would have the Oglala Sioux Tribe, in cooperation with the

Park Service, manage 133,000 acres of land within the Pine Ridge Indian Reservation as a national park.

Neither the Colorado nor Badlands events caused the immediate designation of new conservation areas. But both represent steps on the way to establishing large new park and recreation sites

The Obama administration's grand plans to protect major landscapes came a cropper twice when its proposals to designate national monuments and wild lands were successfully attacked by western Republicans.

The monuments controversy erupted in February 2010 when House Natural Resources Committee Republicans obtained an internal Bureau of Land Management (BLM) memo that said the Interior Department "is considering" the designation of 14 national monuments and the acquisition of billions of dollars of land, all for BLM.

The 14 possible BLM monuments are located in Arizona (1), California (4), Colorado (1), Montana (1), Nevada (1), New Mexico (2), Oregon (1), Utah (2) and Washington (1). The Interior document says 1,618,140 acres would be involved, including 397,210 acres of state and private land. Acquisition of the land would cost more than \$2 billion.

Salazar kicked off the wild lands initiative on Dec. 22, 2010, when he directed BLM to review lands with wilderness characteristics and to designate wild lands. Salazar put that direction in Secretarial Order 3310.

A fiscal year 2011 spending bill President Obama signed April 15, 2011 (PL 112-10) blocked the wild lands policy by shutting off money for it. A fiscal 2012 appropriations bill continues the ban until October 1.

Despite those setbacks the Obama administration has aggressively attempted to implement the President's signature conservation policy - the America's Great Outdoors (AGO) initiative. An AGO report, published Feb. 16, 2011, recommends an all-of-

the-above approach to outdoor policy, beginning with full funding for the Land and Water Conservation Fund.

Obama himself attempted to reenergize AGO March 2 when the White House hosted a conference on the outdoors and the economy. Obama at that time drew a direct link between conservation areas and economic prosperity.

The administration has received broad national support in the last year for the designation of two new conservation areas - Fort Monroe National Monument in Virginia as a unit of the National Park System (enacted by the President Nov. 1, 2011) and Fort Ord National Monument in California as a unit of BLM's National Landscape Conservation System (enacted by the President April 20).

Keeping up the pace Salazar on May 4 traveled to Colorado to announce the approval of a steering committee with Hickenlooper.

Colorado greenway: The steering committee is to recommend ways to knit a huge greenway out of Denver city parks, Rocky Mountain National Park, Rocky Mountain Arsenal National Wildlife Refuge, Two Ponds National Wildlife Refuge and Rocky Flats National Wildlife Refuge. The 10-member committee is to include representatives of the federal government, the state government, the City of Denver and area local governments.

Salazar said, "Today's agreement on the Rocky Mountain Greenway Project is significant because it means that there is a sustainable structure to turn this vision into reality."

Said Hickenlooper. "This is what the America's Great Outdoor initiative is all about - connecting communities to the open spaces and the natural wonders they contain while enhancing recreational opportunities and amenities."

Indian national park: Salazar and NPS Director Jon Jarvis last month traveled to Badlands National Park to

announce completion of a management plan for the South Unit of the park, <http://parkplanning.nps.gov/document.cfm?parkID=117&projectID=17543&documentID=47117>. The plan recommends that Congress designate a tribal national park.

The plan says, "This option (the preferred alternative) would ensure that the Oglala Lakota people manage, own, and operate their lands for the educational and recreational benefit of the general public, including both Tribal and nontribal visitors and residents."

Until Congress acted the status quo would remain in effect. That is, NPS would manage the 130,000-acre South Unit (of a 244,000-acre park) in partnership with the Oglala Sioux.

Get Out West!: Meanwhile, Western Governors' Association (WGA) President Chris Gregoire (D-Wash.) continues to beat the drums for a Get Out West! campaign that parallels AGO. WGA will focus on the campaign at its annual meeting June 9-12 at Cle Elum, Wash. Gregoire is also governor of the State of Washington.

As part of the conference WGA has scheduled for June 9 an Outdoor Recreation and Exploration Day for participants, adults and children. Participants will be encouraged to hike, horseback ride, mountain bike, use all terrain vehicles, and the like.

House appropriators take new shot at wetlands permits

The House and Senate once again are on a collision course on a proper policy for regulating land uses in wetlands.

The House Appropriations Committee has for the third consecutive year approved an amendment to a fiscal year 2013 Energy and Water appropriations bill to block an emerging Obama administration policy. The Senate Appropriations Committee is for the third consecutive year mute on the subject.

On the carpet is draft guidance from EPA and the Corps of Engineers that may extend the sweep of a requirement for permits under the Clean Water Act beyond navigable waters. The draft guidance, which the agencies sent to the Office of Management and Budget in February, would also extend the permit requirement to some non-navigable waters.

The House Appropriations Committee started the ball rolling April 25 when it approved by a 26-to-20 vote an amendment from Rep. Denis Rehberg (R-Mont.) that would prevent completion of the guidance by shutting off money for it.

Said Rehberg after the House vote, "(N)ow the President and his Congressional allies are trying to remove the word 'navigable' from the Clean Water Act to give President Obama control over all water including large puddles, groundwater and irrigation canals. Enough is enough."

The Senate Appropriations Committee approved its version of a fiscal 2013 Energy and Water appropriations bill the next day without the wetlands provision. And the vote for the bill was 28-to-1. The wetlands issue was only tangentially involved in the Senate vote though.

House and Senate Republicans, with some support from such key Democrats as Rep. Nick Joe Rahall (W.Va.), have attacked the administration's wetlands guidance for the last year in letters, stand-alone bills and, most important, \ riders to appropriations bills. Rahall is the ranking Democrat on the House Transportation and Infrastructure Committee.

In a key letter of Cass Sunstein, administrator for OMB's Office of Information and Regulatory Affairs, three House committee chairmen and three ranking Senate minority members complained about the economic analysis EPA and the Corps prepared for the guidance. The critics said the guidance would go beyond mainline Section 404 permits and require wetlands permits for other sections of the law.

"Failing to consider the potential costs of changes for States and an increase in programs outside the \$404 program dramatically underestimates the costs of the changes this guidance document would make," the Republicans wrote Sunstein in March.

Lead signatories were House Transportation Committee Chairman John L. Mica (R-Fla.) and ranking Senate Environment and Public Works Committee ranking minority member James M. Inhofe (R-Okla.)

The draft guidance would include under the navigable waters umbrella navigable waters, of course; interstate waters; wetlands adjacent to navigable waters or interstate waters; and semi-permanent non-navigable tributaries to navigable waters.

The definitions in the 38-page draft appear to stretch the meaning of navigable waters as described in a Supreme Court *Rapanos* decision to the maximum.

The Supreme Court was evenly divided in its June 19, 2006, decision, *Rapanos v. U.S. Nos. 04-1034 and 04-1384*, that muddied the regulatory waters. On the one hand the court did uphold the authority of the Corps and EPA to regulate water bodies. But crucially it also limited the definition of a water body to navigable waters.

Conservation groups such as Trout Unlimited objected to the Rehberg amendment and have succeeded in past years in heading it off. "This rider is an ill-conceived attack on the Army Corps of Engineers and the Environmental Protection Agency that goes after the helpful efforts of these agencies to clarify Clean Water Act protections for streams and wetlands," said Steve Moyer, vice president for government affairs at Trout Unlimited.

In addition to Rehberg's amendment Republicans have introduced stand-alone bills (HR 4965, S 2245) to block the guidance. Mica is the lead Senate sponsor and Sen. John Barrasso (R-Wyo.) is the lead Senate sponsor. Democrats such as Rahall cosponsored the bill.

On the broader issue of fiscal 2013 spending in the Energy and Water appropriations bill the House and Senate are also far apart, with the Senate as usual recommending significantly more spending.

For the Corps of Engineers the Senate panel would provide just over \$5 billion, roughly the same as fiscal 2012 and \$200 million more than the House Committee's \$4.8 billion.

Similarly for the Bureau of Reclamation the Senate committee would provide \$61 million more than the House, \$1.049 billion to \$988 million. The Senate number is still \$28 million less than the fiscal 2012 number.

Here is the status of three other important outdoor spending bills:

Interior: Nothing is scheduled in either the House or Senate. This bill is usually troubled by disputes over EPA spending and energy development that delay things.

Agriculture: The Senate committee approved its bill (S 2375) April 26. Nothing is scheduled in the House.

Transportation: The Senate committee approved its bill April 19. Nothing is scheduled in the House.

Colorado FS roadless area rule near; rec asks more

After a seven-year struggle Secretary of Agriculture Tom Vilsack and Colorado Gov. John Hickenlooper (D) May 2 announced the completion of a final EIS for managing roadless national forests in Colorado.

The preferred alternative in the EIS would protect 4.2 million acres of forest, pretty much in accord with a 2001 Clinton administration roadless area rule. Both the Clinton rule and the Colorado preferred alternative largely forbid road construction, timber sales and other commercial activities in such areas.

But the Colorado policy, to be

finalized in a regulation within 30 days, would exempt thousands of acres from the protections.

Said Hickenlooper, "The rule adds landmark protections to millions of acres of our state's spectacular national forests by incorporating the diverse views of people and businesses across Colorado. The rule enhances all that makes Colorado special while at the same time providing a measure of flexibility that supports local economies and ensures communities can take steps to protect themselves from threats of wildfire."

Vilsack said the preferred alternative would both protect roadless areas and allow for development. "When finalized, this rule will provide a lasting commitment for the protection of roadless areas on our national forests, areas vital for water conservation, wildlife and for outdoor recreation," said the secretary. "Colorado's roadless areas are also important for economic growth and development, providing opportunity for tourism and job development in rural communities."

The human-powered recreation industry is not totally satisfied. The Outdoor Industry Association recommended May 2 that the Forest Service give the entire 4.2 million acres the same protections it would provide for 1.2 million acres of "upper tier" lands.

The association said in a statement, "While the Colorado final revision delineates new 'upper tier' protections for 1.2 million acres, it leaves 3 million acres of the state's roadless lands and waters subject to development and encroachment from utility corridors, energy development and mining.

"Following the 30-day public comment period, the Obama administration should extend upper tier protection to the excepted 3 million acres and make a statement in support of the roles backcountry and wild places play in daily lives and prosperity of the people of Colorado and all Americans."

The final Colorado EIS is based on

a joint proposal posted by the Forest Service and the state on April 15, 2011. The rule was begun by Gov. Bill Owens (R) and continued by Govs. Bill Ritter (D) and Hickenlooper. The Forest Service will issue the final regulation, again within 30 days.

Excepted from bans on development would be significant acreage to help existing coal mining operations vent gas, unspecified acreage for tree-thinning operations near the urban interface and several thousand acres for expansion of ski resorts.

The Forest Service (and the Obama administration) are trying to wrap up a Colorado-only roadless rule just as federal courts are finally in agreement in support of the Clinton rule. On Oct. 21, 2011, the Tenth U.S. Circuit Court of Appeals upheld the rule. That jibes with a Ninth Circuit Court of Appeals decision.

The appeals court rulings effectively ordered the Forest Service to protect 49 million acres of roadless forest from most road construction and timber harvest. An Idaho-specific rule exempts an additional 9.5 million acres from the Clinton rule, as would a Colorado rule.

Loose ends remain in three other states. Wyoming Gov. Matt Mead (R) said in February that he would appeal the Tenth Circuit decision to the U.S. Supreme Court. 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, 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 20 senators and more than 100 House members introduced legislation (HR 3465, S 1891) last 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.)

Idaho: The State of Idaho successfully petitioned the Forest Service for an Idaho-only rule. The Forest Service approved it Oct. 16, 2008. The Idaho rule governs management of 9.3 million acres of roadless national forest in the state, while allowing development on another 400,000 roadless acres. Idaho District Court Chief Judge William Winmill rejected a lawsuit from environmentalists against the Idaho rule.

The Theodore Roosevelt Conservation Partnership (TRCP) warmed to the Colorado preferred alternative, with reservations. "Sportsmen can appreciate the value of our nation's backcountry lands better than most, and we believe that with some final modifications, the Colorado roadless rule will sustain our outdoor opportunities, fish and wildlife populations and small-town economies alike," said Tim Brass, Backcountry Hunters and Anglers Colorado field representative. The group is a member association of TRCP.

NPS Centennial may get legislation, big-time PR firm

Expect major developments in the next few weeks over the campaign to make the National Park System more relevant as it approaches its 2016 Centennial.

High on the list is possible legislation from Sen. Mark Udall (D-Colo.) that would fill in the Congressional direction needed to implement a Park Service blueprint for the Centennial.

Among other things the bill, with Republican cosponsorship from Sen. Rob Portman (R-Ohio), is expected to provide Congress with a role in establishing a billion-dollar endowment.

Udall chairs the Senate subcommittee on National Parks and Portman is a subcommittee member. The subcommittee held a hearing last September on the Park Service plan for the Centennial, dubbed *A Call to Action*,

that recommends an endowment. *A Call to Action* was published Aug. 25, 2011.

At the Senate hearing Udall said, "A common topic in this subcommittee is the maintenance backlog the Park Service and many other federal land management agencies face. That backlog is going to continue to grow. . . I'm interested in exploring the endowment idea that is in this report."

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 the endowment.

The Park Service and its supporters approach the Centennial with some trepidation because of the federal budget crisis. It is assumed that NPS (and other federal land management agencies) will be asked by the Office of Management and Budget to take cuts in fiscal 2014 and 2015 of from five-to-ten percent.

"It's not going to be pretty," said one insider.

A Udall bill may also address a number of issues such as revisions to a federal entrance fee law and Congressional certification of a Park Service program known as Rivers and Trails Conservation Assistance. The program was established administratively.

Working parallel with the Park Service and Congress on the Centennial is a summit of interest groups cochaired by the National Parks Foundation, the National Parks Hospitality Association and the National Parks Conservation Association. Besides the Udall-Portman bill here are some possible new developments over the coming weeks:

* **NATIONAL SURVEY:** The National Parks Conservation Association and the National Park Hospitality Association intend to commission shortly a survey of the national parks. The survey will be conducted as a joint effort by polling firms representing both political parties.

The results of the poll will be shared with Democrats and Republicans, including platform committees for the upcoming August-September conventions.

* PR CAMPAIGN: NPS Director Jon Jarvis and the summit organizers are searching for a major communications firm, perhaps from Manhattan, to help spread the Park Service brand. Once the firm has done its work the Park Service partners would help publicize it.

"That is something we absolutely are considering," said Alexa Ziets, an aide to NPS Deputy Director Peggy O'Dell. "The National Park Foundation is taking the lead but we're talking with the foundation about what it would look like." She confirmed that Jarvis is "very interested" in the idea.

* SUMMIT ACTION ITEMS: The three host groups of the summit of Park Service partners are beginning to implement the steps they agreed to at a January meeting.

The *America's Summit on National Parks*, was convened with some 300 attendees from around the country in Washington, D.C., in January. It prepared the groundwork for a Statement of Principles and Action Items to follow up on the NPS *Call to Action*.

* SUMMIT SIGNATURES: The three host summit groups are attempting to build on a master list of partner groups from around the country. Signatures now exceed 300 and the groups hope to obtain 1,000.

The 36 recommendations in *A Call to Action* include everything from more healthful eating to greater diversity in the workforce. Many track the recommendations of an America's Great Outdoors initiative, President Obama's main outdoor recreation program.

The billion-dollar foundation recommendation is reminiscent of a Bush administration proposal to spend \$2 billion on non-core improvements to the National Park System. In 2007 then Secretary of Interior Dirk Kempthorne launched a \$3 billion National Park System Centennial Initiative that

included the \$2 billion Centennial Challenge.

At bottom the report appears to constitute a doable agenda because it was prepared by NPS employees for NPS employees, in consultation with outside allies. Numerous landmark policy reports on the future of NPS have been prepared over the last decade both by NPS and by blue ribbon commissions, to little effect. Most have sat on shelves.

Hatteras, Biscayne plans under House GOP attack

House Republicans posted notice to the Park Service last month that they will not give a free pass to land management plans that reduce access to national parks.

The Republicans blasted a new Cape Hatteras National Seashore plan and a proposed Biscayne National Park plan at an April 27 hearing. Subcommittee on National Parks Chairman Rob Bishop (R-Utah) launched the attack.

"Although today we focused on two examples, Biscayne National Park in Florida and Cape Hatteras in North Carolina, these overly restrictive policies show signs of developing into a nationwide problem," he said. "This is a continuation of anti-visitation policies driven by the Obama administration that will undercut the tourism industry, hurt local businesses, and destroy jobs."

The sponsor of a bill (HR 3094) to undo the Cape Hatteras management plan, Rep. Walter Jones (R-N.C.), said, "This bill is about jobs and taxpayers' right to access the recreational areas they own. HR 4094 will restore balance and common sense Park Service management in Cape Hatteras National Recreational Area. It will reverse the significant job loss and economic decline that Hatteras Island has experienced since access was cut off to many of the most popular areas of the seashore."

Similarly, Rep. Mario Diaz-Balart (R-Fla.) faulted a draft

Biscayne National Park management plan. "Restricting access should be a last resort after all other alternatives have been exhausted," he said. "It is my hope that we can all work together on a plan that both protects the park and remains accessible for the public to enjoy."

The thrust of the criticism is, as always, that the Park Service is favoring protection of the resource at the expense of public access and local economies. But defenders of the plans, such as the National Association of Black Scuba Divers, argue that the restrictions in Biscayne actually do economic good.

"The establishment of marine reserves in Biscayne National Park to restore the reef system and its full diversity and abundance of marine life would have a strong potential to transform the park into a world class diving and tourism destination, and is an economic driver for the region," said Kamau Sadki, vice president of the divers group.

For its part the Park Service told the Bishop subcommittee the Hatteras plan accomplishes dual goals - provides some off-road vehicle (ORV) access while protecting the environment.

Herbert C. Frost, associate director of natural resources for NPS, said, "The (Interior) Department supports allowing appropriate public use and access at the Seashore to the greatest extent possible, while also ensuring protection for the Seashore's wildlife and providing a variety of visitor use experiences, minimizing conflicts among various users, and promoting the safety of all visitors. We strongly believe that the final ORV management plan and special regulation will accomplish these objectives far better than the defunct Interim Strategy."

The background: **CAPE HATTERAS:** After four years of controversy the Park Service January 23 issued a final rule governing ORV use in Cape Hatteras National Seashore. Jones's bill, HR 4094, would restore a Bush-era

management strategy for Cape Hatteras that would provide substantially more access to the seashore for ORVs. The Bush strategy was executed on June 13, 2007.

The January NPS rule would keep 28 miles of the seashore open to ORV use but designate 26 miles of vehicle-free areas.

In addition to Rep. Jones's bill ORV users filed a lawsuit February 9 against the Park Service plan. However, the plaintiffs may face an uphill battle because the judge assigned the case, Emmet G. Sullivan in Washington, D.C., has ruled against powered recreation uses in national parks in other cases. For instance, Sullivan twice blocked Bush administration rules authorizing significant snowmobile use in Yellowstone National Park.

BISCAYNE: The Park Service proposed a new, 360-page management plan on Aug. 19, 2011, that, among other things, would establish a 10,522-acre, no-take marine reserve.

Said Biscayne Superintendent Mark Lewis when the draft plan was published, "If you visit a national park out West, you expect to see tall trees and healthy populations of large mammals. If you visit Biscayne National Park, you expect to see healthy reefs with a lot of coral cover and lots of large fish of different species.

"But," he added, "over the years, the park's reefs and reef fish populations have undergone a dramatic decline in health and abundance. With a no-take marine reserve, we hope to be able to offer our visitors the opportunity to see and experience a healthy reef, while improving fishing outside the proposed zone."

Greens swim against tide to propose Arizona monument

Despite a recent House vote opposing any new national monuments. Despite a State of Utah demand that all federal lands be transferred to the state. And despite a Senate bill that

would forbid any new conservation areas.

Despite all that, a coalition of environmental groups last month proposed a new, 1.7 million-acre national monument just north of Grand Canyon National Park.

The monument would be located in part on the 1 million acres of Bureau of Land Management and Kaibab National Forest land the Obama administration withdrew from uranium mining on January 9.

The recommendation from the Center for Biological Diversity, the Arizona Wildlands Council and The Wilderness Society says the area should be protected primarily to keep intact an old growth forest.

"The proposed Monument contains the most intact, largely unprotected old-growth forest in the Southwest," says the proposal. "National monument designation for the Grand Canyon Watershed would constitute one of America's most endangered ecosystems."

The prospects for the legislation are not good. Arizona's Republican Sens. Jon Kyl and John McCain have been fighting for a decade to keep the watershed lands open to commodity uses. They led the opposition to the Interior Department's January withdrawal.

Similarly, the senators from Utah, which lies on the proposed monument's northern edge, are vociferous opponents of any new conservations areas. In fact Utah Sens. Mike Lee (R) and Orrin Hatch (R) introduced legislation (S 2473) April 26 to forbid the designation of any new federal conservation areas without the approval of a state.

The Lee-Hatch bill complements legislation (HR 4089) the House approved April 17 that would require state approval of any national monument designated under the Antiquities Act of 1906. To qualify under the law the lands would have to already be federal.

The House provision, approved in a 223-to-198 vote, was offered as an amendment to a federal land hunting and

fishing bill. The Antiquities Act has been used by 16 presidents to designate 130 national monuments, including the Grand Canyon and the Grand Tetons.

In still another state-federal land dispute Utah Gov. Gary Herbert (R) March 23 signed a state law that begins a process that would lead to the transfer of national parks, BLM lands, national forests, wilderness areas and the Grand Staircase Escalante National Monument to the state by the end of 2014. However, the Utah Office of Legislative Research and General Counsel cast doubt on the legality of the state law.

In the face of all that furor the three environmental groups proposed the new 1.7 million-acre Grand Canyon Watershed National Monument. It would fit in between two existing national monuments - Grand Canyon-Parashant to the west and Vermillion Cliffs to the east.

The proposal describes the affected lands as follows: "Together with the adjacent House Rock Valley, Kaibab-Paunsagunt Wildlife Corridor, the Kanab Creek Watershed, and the South Rim Headwaters, the proposed monument includes areas of critical and significant biological diversity, providing crucial habitat and wildlife movement corridors for a host of distinctive species, including the Kaibab squirrel, northern goshawk, the Kaibab-Paunsagunt mule deer herd, mountain lion, and the iconic and endangered California condor."

A national controversy over national monuments erupted in February 2010 when House Natural Resources Committee Republicans obtained an internal BLM memo that said the Interior Department "is considering" the designation of 14 national monuments and the acquisition of billions of dollars of land, all for BLM.

The 14 possible BLM monuments are located in Arizona (1), California (4), Colorado (1), Montana (1), Nevada (1), New Mexico (2), Oregon (1), Utah (2) and Washington (1). The Interior document says 1,618,140 acres would be involved,

including 397,210 acres of state and private land. Acquisition of the land would cost more than \$2 billion.

The monuments memo may have had its greatest impact by slowing an overt Obama administration campaign to designate treasured landscapes around the country.

Notes

Unknowns may govern fire season.

The National Interagency Fire Center (NIFC) said May 1 that the severity of the upcoming fire season would be determined by overall world weather patterns, as well as by the snow pack in the Intermountain West. If an El Niño climate pattern prevails, the West could see more precipitation than in recent years, when a La Niña pattern prevailed, said Ed Delgado, NIFC Predictive Services Program Manager. Delgado said the snowpack could cause trouble in the West. "We are looking at the effects from the low snowpack we had in the Intermountain West this year and also where the fuel stage is at this point and how it will evolve over the next couple of weeks and months," he said. Summing up, Delgado said, "With all these things in the mix the areas we are most concerned with include parts of the Southwest and the western slope of the Rockies. We're also looking at the interior mountains of California and the western and central areas of the Great Basin, parts of the Southeast and the Upper Midwest." In its fiscal year 2013 budget request the Obama administration requested these amounts for fire fighting (FLAME is the Federal Land Assistance, Management and Enhancement Act of 2009, which provides money for combatting large wildfires): Interior Department: Wildland fires, \$726.5 million. FLAME account, \$92 million. Forest Service: Wildland fires, \$1.971 billion. FLAME account, \$315 million.

House tries to block ocean policy.

The House May 9 voted 246-to-174 to cut off money for the implementation of President Obama's National Ocean Policy. At issue is a concept named Marine Spatial Planning. It was included in the draft implementation plan that was

published in January. The House vote came on an amendment sponsored by Rep. Bill Flores (R-Texas) to a fiscal year 2013 Commerce Department appropriations bill (HR 5326). Said Flores on the House floor, "Concerns have been raised that the recently created National Ocean Policy may not only restrict ocean and inland activities, but given that it has not received any of its own funding, it will take scarce funds away from Federal Agencies and their currently authorized activities that are critical to the ocean and coastal economies, as well as our overall economy." But Rep. Norman Dicks (D-Wash.) countered, "The implementation of the National Ocean Policy will help to protect, maintain, and restore our ocean, coastal, island, and Great Lakes ecosystems, which provide jobs, food, and recreation, and serves as a foundation for a substantial part of our Nation's economy." The Obama administration formally proposed implementation of the national policy January 12 that is designed to coordinate management of the nation's oceans, coasts, and Great Lakes. The administration said it intends to publish a final implementation plan this year. Republican critics contend the plan constitutes top-down federal interference with the management of recreation on the nation's oceans and coasts.

National mall redo teams chosen.

The Trust for the National Mall May 3 selected three architectural firms for the expensive redesign of the nation's mall in Washington, D.C. The three firms laid out plans for NPS to follow in a \$600 million (and up) renovation of the deteriorating mall that is home to the Lincoln Memorial, the Washington Monument, the Smithsonian Institution and even the nation's Capitol grounds. For Constitution Gardens, Rogers Marvel Architects & Peter Walker and Partners won the competition. Their design recommends a new restaurant and a grass amphitheater, among other things. For the Washington Monument grounds and Sylvan Theater OLIN + Weiss/Manfredi drew up a plan that calls for a reorientation of the theater to face the monument. For the Capitol Hill grounds that extend into the mall Gustafson Guthrie Nichol & Davis Brody

Bond recommended new terracing. (Since the design competition began, Congress transferred the Union Square site at the foot of the Capitol from the Park Service's jurisdiction to the Architect of the Capitol for security reasons. Still, the winning design for the area will be submitted to the Architect of the Capitol.) The National Mall is in line for the \$600 million restoration under a plan unveiled by the Park Service on Nov. 9, 2010. The preferred alternative in the plan includes the replacement of lawn with paved spaces, renovation of structures and a general modernization of the mall. The design of those projects is the subject of the trust's competition. The Park Service acknowledged that it doesn't expect Congress to pay for the ambitious plan. To help out the Trust for the National Mall has begun a \$350 million fund-raising campaign. It expects to have the money in hand in 2014. The Washington Mall has not been redesigned for 36 years. In that time some 30 million visitors each year have tromped across the mall's grounds. To view the designs go to www.nationalmall.org.

Farm bill goes to Senate. The Senate Agriculture last month sent to the Senate floor a five-year farm bill that consolidates 23 existing conservation programs into 13 programs. The measure, prepared by committee chairman Debbie Stabenow (D-Mich.), was approved by the committee by a 16-to-5 vote. The National Association of Conservation Districts (NACD) praised the committee's action on conservation programs. "We're especially pleased with a strong Conservation Title that streamlines and consolidates programs for increased efficiency and ease-of-use for producers, while maintaining critical funding for valuable Technical Assistance helping provide adequate boots on the ground to implement conservation where it counts," said NACD President Gene Schmidt. Conservation programs eliminated by the bill would be conservation enhancements, wetlands reserve, grassland reserve and wildland habitat incentive programs, among others. Congress develops a Farm Bill every five years. The last was enacted in 2008 and expires at the end of this year. The House Agriculture Committee

has completed field hearings. And it has begun holding national-level hearings.

Close vote on DoI leader. The Senate Energy Committee April 26 approved the nomination of Marcilynn Burke as a top public lands policy maker at the Interior Department, but by an ever-so-slim margin of 11-to-10. Ranking committee Republican Lisa Murkowski (R-Alaska) criticized Burke for her role in the proposed merger of the Bureau of Land Management (BLM) and the Office of Surface Mining (OSM). "The responses we have received from Ms. Burke regarding the proposed OSM-BLM consolidation have been quite simply inadequate. The official reason given for the consolidation has been administrative efficiency but after five months of repeatedly asking for estimates on the costs and savings, we have still received nothing," she said. "Given the generally insufficient level of communication about the consolidation, I have serious concerns about how forthcoming and collaborative Ms. Burke would be if confirmed." Murkowski also criticized the nominee because of Burke's support for protection of the coastal plain of the Arctic National Wildlife Refuge and Burke's support for the designation of wild lands.

Senators would bar new fed lands. Six Republican senators introduced legislation (S 2473) April 26 that would prevent the addition of any federal conservation lands without the approval of a state. The bill would forbid the addition of any national forests, national parks, wildlife refuges, wild and scenic rivers, national trails, wilderness areas or any other kind of conservation area without the approval of state legislatures. The move follows House passage April 17 of legislation (HR 4089) that would require approval of a state before a national monument designation could take effect. The House amendment was attached to a broader bill to ensure hunters and fishermen have access to public lands. Separately, individual House and Senate members have introduced close to a dozen bills that would limit the President's authority under the act. The lead sponsor of the Senate bill

was Sen. Mike Lee (R-Utah). Cosponsors included Sen. Lisa Murkowski (R-Alaska), ranking Republican on the Senate Energy Committee, and Sen. John Barrasso (R-Wyo.), ranking Republican on the Senate subcommittee on Public Lands and Forests.

Bat epidemic reaches parks. The Center for Biological Diversity said last week that the national bat disease called "white-nose" syndrome has reached two national parks. Most recently, it has hit the Chickamauga and Chattanooga National Military Park in Georgia and Tennessee. Previously, it had reached the C&O Canal National Historic Park. Mollie Matteson, a bat specialist with the center, said, "Each new report of this disease's catastrophic march across the country reaffirms this is the worst wildlife epidemic in U.S. history and demands decisive action from our leaders in Washington." Matteson said the center has petitioned the White for a coordinated national response to the disease that has spread into 19 states over the last six years. Millions of bats have died.

GAO: Fed agency info lacking. The data federal agencies generate on uses of the public lands is not reliable, said the Government Accountability Office (GAO) in Congressional testimony May 3. GAO said that five federal land management agencies collect elementary data, such as how many cultural and historic sites they manage, but not more detailed info. GAO said none of the agencies provide data in 33 other areas, such as the acreage used for energy development. As for stored information the testimony said, "GAO assessed the potential reliability of the data elements that the five agencies collected and determined that less than half of the data elements stored in a primary agency data system were potentially reliable." GAO prepared the testimony for the House subcommittee on Energy and Minerals. The five land management agencies are the Park Service, the Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Reclamation and the Forest Service. The report: *FEDERAL LAND MANAGEMENT: Availability and Potential Reliability of Selected Data Elements at Five Agencies*, is

available at: <http://www.gao.gov/products/GAO-12-691T>.

Conference Calendar

JUNE

10-12. **Western Governors' Association** annual meeting in Cle Elum, Wash. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202. (303) 623-9378. <http://www.westgov.org>.

13-16. **U.S. Conference of Mayors** annual meeting in Orlando. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, D.C. 20006. (202) 293-7330. <http://www.usmaors.org>.

25-29. **National Speleological Society** annual meeting in Greenbrier Valley, W.Va. Contact: National Speleological Society, 2813 Cave Ave., Huntsville, AL 35810-4331. (256) 852-1300. <http://www.caves.org>.

JULY

11-13. **The International Convention of Allied Sportfishing Trades** in Orlando. Contact: American Sportfishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. <http://www.asafishing.org>.

13-17. **National Association of Counties** annual conference in Pittsburg, Pa. 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>.

AUGUST

2-5. **Outdoor Retailer Summer Market** in Salt Lake City. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

NOTHING SCHEDULED. **Safe Routes to School National Conference.** Contact: www.saferoutesconference.org.

19-23. **American Fisheries Society** annual meeting in Minneapolis. Contact: American Fisheries Society, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199. (301) 897-8616. <http://www.fisheries.org>.