To: BLM_WO_302[blm_wo_302@blm.gov]; BLM_WO_310[blm_wo_310@blm.gov]; BLM_WO_320[blm_wo_320@blm.gov]; BLM_WO_350[blm_wo_350@blm.gov]; John Broderick[jbroderi@blm.gov]; Karen Mouritsen[kmourits@blm.gov]; Kendra Nitta[kendra.nitta@sol.doi.gov]; Michael Nedd[mnedd@blm.gov]; Timothy Spisak[tspisak@blm.gov]; Curnutt, Lindsey[lcurnutt@blm.gov]
From: Merrill, Adam
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From: **Public Lands News** <james@publiclandnewsletter.com>
Date: Fri, Jun 16, 2017 at 7:00 AM
Subject: Public Lands News: Monuments may shrink; sage-grouse change; methane delays
To: james@publiclandnewsletter.com

Dear Public Lands News Subscriber:

June 16, 2017: Attached is the current issue of the newsletter Public Lands News (Volume 42 Number 12), in .doc format and in PDF format. Below are the headlines. We thank you for reading Public Lands News.

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Adam Merrill

Geologist
Washington Office
Division of Solid Minerals
(202) 912-7044

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Zinke tells Trump Bears Ears monument is too large

Secretary of Interior Ryan Zinke June 12 recommended that President Trump reduce the size of the Bears Ears National Monument in southern Utah, touching off a political firestorm.

As part of an administration-wide review of the designation of 27 large national monuments, Zinke told the President, "I've submitted my 45-day interim report to President Trump expressing my belief that the monument needs to be right-sized and that it is absolutely critical that an appropriate part be co-managed by the Tribal nations. I also recommend that Congress take action to protect some areas."

Zinke did not say how much land should be trimmed from Bears Ears, saying he needs time to figure that out. He is expected to submit a precise recommendation by the end of August.

The recommendation was met with applause by the all-Republican Utah Congressional delegation, which has been championing for either a reduction in size of Bears Ears or a revocation of the Dec. 28, 2016, designation of the 1.35 million-acre monument by President Obama.

Said House Natural Resources Committee Chairman Rob Bishop (R-Utah, "This is positive news for the State of Utah and local communities affected by the Bears Ears monument designation. Anyone with honest intentions recognizes that local input should matter when the federal executive makes a decision of this magnitude. I commend Secretary Zinke for actually listening to local voices on the issue and conducting a thoughtful and deliberative review to help inform the President's ultimate decision."

If President Trump accepts Zinke's recommendation, a likelihood, it raises the possibility of a lawsuit under the Antiquities Act of 1906. That law authorizes a President to designate national monuments, but some experts question whether it authorizes the de-designation of monuments, or significant portions of monuments.

The environmental group The Wilderness Society promised all-out war. "The Trump administration's announcement today on Bears Ears is nothing less than an attack on the future of all American monuments, parks and public lands," said Jamie Williams, society president.

The society said that if Trump follows through on Zinke's recommendation, "The Wilderness Society will take all steps necessary to defend Bears Ears and the Antiquities Act against these attacks - including legal action."

President Trump started the ball rolling April 26 when he signed an executive order directing the Interior Department to review the designation of national monuments of more than 100,000 acres made since 1996. Trump did not take the ultimate step and say he had the authority to revoke those designations.

The 100,000-acre limit applies to 21 national monuments in the West, plus an 87,500-acre Katahdin Woods and Waters National Monument in Maine and five huge marine monuments. That's 27 total.

Zinke met in Maine June 14 with critics and supporters of the Katahdin national monument, which is managed by the Park Service.

Zinke has suggested that he is more interested in reducing the size of monuments than the outright revocation of them. As he said after Trump kicked off the review, "Historically, the Act calls for the President to designate the 'smallest area compatible with proper care and management of the objects to be protected.' Despite this clear directive 'smallest area' has become the exception and not the rule."

The public comment period on Bears Ears ended May 26. Trump's executive order asked for a recommendation from Zinke by June 10. The recommendation was submitted June 12. The comment period for the other 26 monuments runs through July 9. At press time more than 150,000 comments had been submitted on Bears Ears. However, the Sierra Club counts more than 685,000 comments opposing any change to Bears Ears.

Sportsmen also criticized Zinke's plan. Backcountry Hunters and Anglers President Land Tawney said, "An attack on one monument is an attack on them all. Public lands sportsmen will not stand idly by while these attacks unfold. Backcountry Hunters & Anglers will continue to stand up for our national monuments, the opportunities they represent and the legacy they protect and sustain."

The liberal Center for American Progress attacked Zinke personally for advocating retention of federal lands in the public domain while at the same time moving to mar those lands with commercial activities.

Said Jenny Rowland, research and advocacy manager for the Public Lands Project at the center, "Zinke has attempted to draw a fine line between advocacy for the wholesale sell-off of public lands and the sell-out of public lands to the fossil fuel industry. As much as Zinke has tried to distance himself from the former, he has been consistently clear that he is willing to bend the rules for the oil and gas industry."

Democratic leaders wrote Zinke May 25 asking him not to recommend major monument changes. "As public servants, we have a moral obligation to protect America's natural places - our outdoor heritage - and important cultural and historic landmarks for our children and grandchildren to enjoy," they wrote. "For these reasons, we urge you to reject any attempt to diminish or eliminate national monuments in carrying out the President's executive order."

Signing the letter were House Democratic Leader Nancy Pelosi (Calif.), House Democratic Whip Steny H. Hoyer (Md.), Senate Democratic Leader Charles E. Schumer (N.Y.), and Senate Democratic Whip Dick Durbin (Ill.)

Utah Republican Sens. Mike Lee and Orrin Hatch, who prodded Trump to begin the review as soon as he was elected, are all in. They wrote Trump last month, "No president has seriously revisited the modern, expansive use of the Antiquities Act (of 1906). We urge you to keep all remedies on the table as you consider how to correct past abuses of the Antiquities Act and work with Congress to ensure a more measure approach is taken and required in the future."

Zinke says new sage-grouse policy will defer to states

Secretary of Interior Ryan Zinke June 8 began a substantive new sage-grouse policy that would give states significant leeway in managing the bird.

Although the policy - in the form of a Secretarial Order - has been painted as merely a procedural review, it recommends real change. That is, it would have BLM and the Forest Service revise grouse plans in accordance with Zinke's direction.

As Zinke told the House subcommittee on Interior appropriations June 8, "It opens up a state's ability to formulate a plan shaped to that state rather than just us."

"So we incorporated things like if a state feels comfortable about going on numbers vis-à-vis habitat, captive breeding, or predator control we allow states more flexibility on how they approach it," he said.

But Zinke said the policy will not begin from ground zero. "What the Secretarial Order did not do is stop, or manage (sic), a review of the work that had already been done. There has been a lot of really good work on the sage-grouse so we didn't want to reinvent the wheel. We just wanted to give states a more innovative approach if they wanted according to their data."

The Secretarial Order 3353 itself indicates that Zinke has made up his mind about giving states new and different authority to manage sage-grouse.

It says: "Consistent with governing laws, regulations, and policies, the Department will implement a multifaceted strategy to enhance cooperation with the Eleven Western States primarily responsible for the management and conservation of Sage-Grouse. The strategy will include supporting a partnership that allows the Department and the Eleven Western States to maintain healthy populations of Sage-Grouse and improve collaboration and integration of State and local concerns and approaches into sagebrush management and conservation on Federal lands."

Zinke told the press the day before he started the review that he had heard complaints from governors that the plans "have been heavy-handed. The complaints have been that the federal government is dictating terms too much."

But on May 26 two western governors - Wyoming Gov. Matt Mead (R-Wyo.) and Colorado Gov. John Hickenlooper (D-Colo.) - wrote Zinke and asked him NOT to change course.

"We understand that you are considering changing the Department's approach to sage-grouse, moving from a habitat management model to one that sets population objectives for the states," they wrote. "We are concerned that this is not the right decision."

They added, "Wholesale changes to the land use plans are likely not necessary at this time."

Oppositely, eight Republican members of the House Public Lands Caucus endorsed the proposal and said they anticipated substantive changes.

Said Rep. Paul Cook (R-Calif.), "I welcome Secretary Zinke's much-needed call to review Sage-Grouse policies. The bird is not endangered and we need to stop putting the supposed needs of this bird ahead of the real needs of people, our local economies, and our national security."

Environmentalists said they would contest the Zinke policy, implying that the Trump administration should not give early deference to states. Said Earthjustice Attorney Ted Zukoski, "To make any revisions, Interior will have to involve the public, biologists, the states and all stakeholders. As Interior moves forward, we'll be there to defend the existing plans that benefit not only the grouse but the many communities, ranchers and sportsmen who rely on healthy sagebrush ecosystems across the West."

A new survey: Backcountry Hunters and Anglers, long a critic of consumptive uses of the public lands, on June 13 argued that coal, oil and gas development is compatible with most sage-grouse habitat.

In a new report the sportsmen say that coal, oil and gas reserves overlap with only four percent of priority habitat management areas.

"Energy development is an appropriate and necessary use of our public lands, particularly in the West, yet it must be pursued responsibly and in the right places," said association conservation director John Gale. "Our report shows that the vast majority of greater sage grouse habitat is ill-suited to energy development of any kind, now or in the future - and that more than three-quarters of areas potentially suited to energy production are located outside areas important to sage grouse."

The report is available at: http://www.backcountryhunters.org/tags/press releases.

As *PLN* reported in the last issue the Trump administration signaled May 23 that it would back off from full implementation of the 98 BLM and Forest Service sage-grouse management plans. The signal came in the form of a proposal to reduce spending on the plans in fiscal year 2018.

That would undoubtedly give states more say in managing the sage-grouse and, inferentially, give commodity users greater access to the public lands, perhaps in line the sportsmen's recommendation.

The Trump signal came in a BLM budget request that would trim $11.5 million from BLM's budget for sage-grouse management. The budget says the reduction would lead to "a revised implementation timeline of the Sagebrush Conservation Implementation Strategy and more limited habitat restoration work." The fiscal 2017 BLM appropriation for sage-grouse management was $68.9 million.

The Obama administration sage-grouse policy, issued on Sept. 22, 2015, did not list the greater sage-grouse as an endangered or threatened species as western states had feared. Instead, it directed BLM and the Forest Service to implement 98 records of decisions to protect the bird. The plans apply to 67 million acres across 10 western states.

To revise or replace those plans might take years. But to slow their implementation could be executed with simple budget reductions.

As part of the Obama policy, the Interior Department on Sept. 24, 2015, withdrew 10 million acres of public lands from hard rock mining claims for two years - or until September 24th of this year. The Obama Interior Department proposed on Dec. 29, 2016, a 20-year withdrawal of the 10 million acres beginning with the expiration of the two-year withdrawal.

The National Mining Association June 9 said it welcomed the Zinke review, perhaps with an eye to a cancellation of that withdrawal. Said association president Hal Quinn, "These plans now impose significant restrictions on valuable resource development - including mineral and mining-related activities - on 67 million acres of federal lands in a half-dozen states. Nor did the environmental assessment accompanying these plans provide any justification for a proposal to ban new mineral exploration from 10 million acres with potentially valuable mineral reserves."

Now the hard rock mining industry, the oil and gas industry, some western states and some western local governments are pushing all buttons to do away with the Obama policy and let state plans govern the imperiled bird.

Zinke's Secretarial Order is available at: https://www.doi.gov/sites/doi.gov/files/uploads/so_3353.pdf.

It's not in budget, but chief will support fire cap

Following up on his boss's promise to the House of last month, Forest Service Chief Tom Tidwell told Senate appropriators June 7 that the Trump administration supports guaranteed money for emergency wildfires.

Although the fiscal year 2018 administration budget request does not propose a "disaster cap" to take spending on huge wildfires out of regular appropriations, Tidwell said the administration is ready to talk turkey. That repeats the promise of his boss Secretary of Agriculture Sonny Perdue to the House last week.

Said Tidwell at a hearing on the agency budget before the Senate Appropriations subcommittee on Interior, "The budget does not include a proposal for a fire funding fix, but I look forward to working with the Department of the Interior, Office of Management and Budget and you to develop a responsible approach that addresses risk management, performance accountability, cost containment, and the role of State and local government partners in ensuring adequate funds are available for wildfire suppression without undue disruption to land management operations."

The administration promise arrives just as a bipartisan coalition of House members introduced legislation (HR 2862) June 8 that would place a disaster cap on wildfire funding.

The measure under lead sponsor Rep. Mike Simpson (R-Idaho) would transfer emergency wildfire expenses greater than the 10-year average out of discretionary appropriations and into disaster spending.

"When more than fifty percent of an agency's budget is unpredictable, you are creating a recipe for the unsustainable fire-borrowing we see today that devastates our forests and costs taxpayers," said Simpson.

In a closely related action Rep. Bruce Westerman (R-Ark.) introduced a draft of a bill that also authorizes a disaster cap for wildfire costs. Westerman's draft would take an extra step beyond the Simpson bill and expand categorical exclusions from environmental reviews of timber sales related to wildfires.

The House approved a predecessor to the Westerman bill twice in the last Congress and the Senate Agriculture Committee approved it once. The House subcommittee on Federal Lands held a hearing on the bill yesterday.

Said House Natural Resources Committee Chairman Rob Bishop (R-Utah), "This draft builds upon the work of the prior Congress to pair forestry reforms with a responsible budget fix and finally address our wildfire crisis. We must give federal agencies the tools to treat federal forests and rangelands at a greater pace and scale and we must end fire borrowing. This framework addresses both."

In the June 7 Senate hearing ranking subcommittee on Interior Appropriations Democrat Tom Udall (D-N.M.) pressed Tidwell on wildfire funding because the budget would only fund the 10-year average of fire-fighting costs and not the projected emergency costs. Udall fired off a series of questions:

"Chief, you know that the 10-year average doesn't actually cover fire fighting costs. Can you explain why you chose not to request the actual forecasted need? Can we expect the administration to support emergency supplemental funding of the amounts sufficient to cover actual fire fighting expenses? What is the administration plan to propose a solution for fire borrowing? Is the disaster cap of the Obama administration a nonstarter for this administration?"

Tidwell responded that the budget, while not formally proposing a disaster cap, does allow for it. "Our budget request does follow the agreement to fund the 10-year average, but it also, I believe, provides the emphasis where we need to find a solution and once and for all be able to find a way to cover that really one percent of fires that contribute 20-to-30 percent of our costs. . .," he said. "We stand committed to finding a solution to this once and for all."

Subcommittee Chairman Lisa Murkowski (R-Alaska) was optimistic that Congress and the administration could strike a deal. "I'm pleased that this Administration recognizes this problem and look forward to working with the Forest Service and the Office of Management and Budget to address this issue during this budget cycle in a fiscally responsible and politically feasible way," she said.

At the hearing Sen. Jon Tester (D-Mont.) asked the chief if fire borrowing would prevent the Forest Service from meeting its timber sale target. Said Tidwell, "I'm optimistic that we can meet that target. We have actually increased the target from 3.2 (billion board feet) to 3.4 based on the additional funding you provided in the FY '17 appropriations bill for us to get some additional planning done."

For wildfire management the Trump fiscal 2018 budget request approximates a fiscal 2017 final appropriations law (PL 115-31 of May 5). It requests $2.849 billion for Forest Service wildfire compared to a fiscal 2017 appropriation of $2.8 billion.

For the Interior Department the administration requested $874 million for wildfire management compared to a fiscal 2017 appropriation of $943 million.

At the Senate hearing several western senators and Tidwell addressed two other pressing national forest issues - a maintenance backlog and a "Cottonwood" court decision requiring additional consultation on projects affecting lynx habitat.

Maintenance: The Trump administration's fiscal year 2018 budget request proposes a decrease of $264 million for infrastructure, dropping from $364 million to $100 million. Murkowski worried that the reduction would prevent the Forest Service from maintaining roads and maintaining other infrastructure needed to support timber sales.

"Without adequate funding for road maintenance and construction the agency will be unable to provide necessary access for timber purchasers while also meeting legally required environmental standards," she said.

Udall asked rhetorically, "How do we sustain the $10 billion generated by visitors to our National Forests - and the 143,000 jobs they create — if we don't have roads to access the forests, or safe and accessible facilities, or hiking trails for visitors to use once they are there?"

Tidwell suggested that money for those projects may be in the offing in President Trump's anticipated $1 trillion infrastructure plan that would rely primarily on non-federal partnership money.

He said the $100 million appropriation would be used "to maintain a workforce that will implement critical infrastructure maintenance projects on National Forest System lands and remain ready to implement additional improvements that could be funded through the Administration's infrastructure initiatives."

Cottonwood: A 2015 Cottonwood court ruling directed the Forest Service to consult with the Fish and Wildlife Service (FWS) on plans that affect lynx habitat. The Forest Service had consulted with FWS when the lynx habitat was initially designated in 2007, but in 2009 FWS pulled that habitat designation and designated significantly more national forest as critical habitat.

At that point, said the Ninth U.S. Circuit Court of Appeals, the Forest Service should have reconsulted on plans governing lynx habitat. Although the court didn't enjoin any projects, it did say the Forest Service should revise the plans, and consult with FWS.

At the Senate hearing Sen. Steve Daines (R-Mont.) asked Tidwell to support his bill (S 605) that would waive consultation. "According to the Obama administration this decision has the potential to cripple federal land management agencies," Daines noted.

Tidwell said he would welcome the legislation and said the Forest Service is not averse to consultation. "But," he said, "the way this court decision came down it creates a continuous procedural loop so that we're never done (consulting). Even when we do a lynx amendment consult it's not considered complete. Any time there is new information, and there is constantly new information - it could be something like a master's thesis - that's new information."

Tidwell said the Cottonwood decision applies to the entire Ninth Circuit's jurisdiction, which includes 52 percent of the nation's national forests.

Zinke makes the case for increased energy development

Secretary of Interior Ryan Zinke offered a spirited defense of increased commodity development from the public lands June 8, arguing that revenues from such development could pay for land management agency maintenance backlogs.

"This budget does prioritize America's energy independence with an all-of-the-above strategy," he told the House subcommittee on Interior Appropriations at a hearing on his department's fiscal year 2018 budget request. "We do not value oil and gas over alternative energies but it is all-of-the-above that is a prudent focus."

Zinke said the Obama administration Interior Department lagged in revenue collections. "Let me give you an example when I talk about the budget, when you go back to 2008 we made $18 billion (from) offshore (oil and gas development). Last year we made $2.6 billion. That's a drop of $15.4 billion a year in revenue."

Then he made the link to maintenance. "When I'm faced with an $11.5 billion deficit in maintenance on our parks. . . a drop in $15.4 billion per year we could have caught up with our entire backlog in one year and had $3 billion left over for new infrastructure and capital investment. When you add in timber and offshore (energy development) it gets worse."

So, Zinke concluded, "One of the first acts I've done is to look at revenues across-the-board because I'm concerned that we're not getting value."

Of note offshore oil development came to a screeching halt in April 2010 because of the Deepwater Horizon explosion and fire in the Gulf of Mexico, and is still recovering.

Ranking subcommittee Democrat Betty McCollum (D-Minn.) deplored the Trump administration's emphasis on energy. "Sadly, this budget advances an agenda that puts the pocket of oil and gas companies above the pubic good," she said. "There is a place for responsible oil and gas development on our public lands, but it must be balanced and it must be sustainable."

She added, "This budget abuses the department's conservation responsibilities. The Department has already begun to reverse critical environmental responsibilities such as those that would limit offshore drilling, a moratorium on coal leasing and control of methane."

Overall for the Interior Department the Trump administration budget request would reduce spending in fiscal 2018 by $1.6 billion, from $12.2 billion to $10.6 billion.

However, subcommittee chairman Ken Calvert (R-Calif.) said, "the budget request for your department may not be exactly what you would have proposed but ultimately Congress will have the final say over the fiscal year 2018 budget.

To which McCollum said, "I'm going to make my position very clear. I will not support an Interior Environment bill that appropriates less than our current FY '17 level."

Although the House (and the Senate) have not assigned spending caps to appropriations bill yet, the House Appropriations Committee June 15 approved an initial fiscal 2018 spending bill, this one for Military Construction.

At the House Interior hearing Rep. Mike Simpson (R-Idaho) said he was working on legislation to provide money to address federal land management agency maintenance backlogs. That legislation (HR 2863), introduced June 8, would guarantee $900 million per year for the Land and Water Conservation Fund and divert half of that money - $450 million per year – to maintenance. *(See related article page 20.)*

In a separate area chairman Calvert said the payments-in-lieu of taxes (PILT) program at more than $400 million per year would drag down his subcommittee's appropriations bills.

"Identifying stable long-term funding for payments-in-lieu of taxes is another major challenge," he said. "Until a solution is identified funding PILT is going to continue to put pressure on program budgets for programs across our agencies within this bill."

The Trump administration, as advertised, submitted a fiscal year 2018 budget request May 23 that would cut appropriations for federal land management agencies across-the-board.

Substantively, the budget proposes major new policies, including leasing for oil and gas in the coastal plain of the Arctic National Wildlife Refuge within five years. That proposal has been before Congress for 35 years without success.

The administration also would terminate the Southern Nevada Public Land Management Act, which has produced $3.4 billion from federal land sales over the last 20 years. The budget would confiscate unspent Nevada money. Finally, the budget recommends the revival of the Federal Land Transaction Facilitation Act, which expired in 2011.

For BLM resource management Trump proposed a $132 million reduction, from $1.095 billion in fiscal 2017 to $963 million in fiscal 2018.

For the National Forest System Trump proposed a $234 million increase, from $1.513 billion in fiscal 2017 to $1.747 billion in fiscal 2018, but the Trump budget would include in forest management $354 million for hazardous fuel treatments. Deducting the hazardous fuels management transfer, the National Forest System would receive $120 million less in fiscal 2018 than in fiscal 2017.

For wildfire management the Trump budget approximates a fiscal 2017 final appropriations law (PL 115-31 of May 5). It requests $2.849 billion for Forest Service wildfire management compared to a fiscal 2017 appropriation of $2.8 billion. For the Interior Department the administration requested $874 million for wildfire management compared to a fiscal 2017 appropriation of $943 million.

Even for the almost sacred PILT program the Trump administration proposed a decrease of $68 million, from $465 million in fiscal 2017 to $397 million in fiscal 2018.

Fiscal 2018 numbers: Here are a few numbers in the final fiscal 2018 budget request, compared to fiscal 2017 appropriations:

BLM RESOURCE MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $963 billion, compared to a fiscal 2017 appropriation of $1.095 billion.

PAYMENTS-IN-LIEU OF TAXES: The fiscal 2018 proposal recommends an appropriation of $397 million, compared to a fiscal 2017 appropriation of $465 million.

WILD HORSES AND BURROS: The fiscal 2018 proposal recommends an appropriation of $70.7 million, compared to a fiscal 2017 appropriation of $80.6 million.

ENERGY AND MINERALS: The fiscal 2018 proposal recommends an appropriation of $177.4 million, compared to a fiscal 2017 appropriation of $172.8 million.

NATIONAL LANDSCAPE CONSERVATION SYSTEM: The fiscal 2018 proposal recommends an appropriation of $27.7 million, compared to a fiscal 2017 appropriation of $36.8 million.

NATIONAL FOREST SYSTEM: The fiscal 2018 proposal recommends an appropriation of $1.747 billion, compared to a fiscal 2017 appropriation of $1.513 billion, but the Trump budget would include in forest management $354 million for hazardous fuels management. Deducting the hazardous fuels management the National Forest System would receive $120 million less, or $1.393 billion.

FOREST PRODUCTS: The fiscal 2018 proposal recommends an appropriation of $359.1 for this line item, which includes timber sales, compared to a fiscal 2017 appropriation of $367.8 million.

FWS REFUGE MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $470.1 million, compared to a fiscal 2017 appropriation of $483.9 million.

LWCF FEDERAL ACQUISITION: The fiscal 2018 proposal recommends an appropriation of $51 million, compared to a fiscal 2017 appropriation of $188.8 million.

Here is the agency-by-agency LWCF distribution: BLM would receive $3.6 million compared to $31.4 million in fiscal 2017; the Fish and Wildlife Service (FWS) would receive $17 million compared to $50 million; the Park Service would receive $23 million compared to $42 million; and the Forest Service would receive $7 million compared to $54.4 million.

BLM and EPA postpone methane rules for two years

BLM and EPA issued separate rules this week designed to postpone key elements of methane emissions rules for two years, to the applause of the

energy industry and the condemnation of environmentalists. The BLM postponement is effective immediately and EPA in its action *proposed* a two-year delay.

BLM said June 14 it was invoking a provision of the Administrative Procedures Act that authorizes agencies to postpone the implementation of new rules, if and when petitioners give good cause.

In this instance BLM said the Western Energy Alliance has justified the delay of a Nov. 16, 2016, methane emissions rule by objecting to the "regulatory uncertainty" of provisions dealing with leakage detection, storage tanks and pneumatic device provisions.

Other provisions that BLM is already implementing, such as development of a waste minimization plan, royalty free use of production, definitions of unavoidably lost and avoidably lost, limits on drilling and flaring, and downhole maintenance will continue in place.

Concluded BLM, "While the BLM believes the Waste Prevention Rule was properly promulgated, the petitioners have raised serious questions concerning the validity of certain provisions of the Rule. Given this legal uncertainty, operators should not be required to expend substantial time and resources to comply with regulatory requirements that may prove short-lived as a result of pending litigation or the administrative review that is already under way."

On June 13 EPA proposed a two-year delay of its methane emissions rule of June 3, 2016. EPA previously delayed that rule for 90 days beyond a June 3 compliance deadline and said the interim postponement will give time to finish the longer delay.

The Western Energy Alliance thanked both agencies. "Both rules vastly exceeded federal authority," said Kathleen Sgamma, president of the alliance. "In the case of the BLM rule, the Bureau tried to assume authority that resides with the states and EPA to regulate air quality. In the case of the EPA rule, the agency attempted to regulate methane without conducting a methane endangerment finding, as required by the Clean Air Act."

BLM stood up for the alliance, saying the bureau "specifically noted that the (leakage detection), storage tank, and pneumatic device provisions will require operators to begin purchasing and installing tens of thousands of replacement parts in the near future."

The Sierra Club objected to the delay. "BLM's methane rule would protect our public lands and communities, and it has already withstood legal challenges and an attempted repeal in Congress," said Lena Moffit, senior director of the Sierra Club's Our Wild America Campaign. "Working behind closed doors to undermine these commonsense protections is a slap in the face to the millions of Americans who support them, and to the many communities who will breathe polluted air as a result."

There is already litigation underway, as Moffit noted. On January 16 Judge Scott W. Skavdahl in U.S. District Court in Wyoming refused for now to halt implementation of the BLM rule. He held that industry plaintiffs, including the Western Energy Alliance, had not yet proved they would be harmed by the regulation.

However, Skavdahl was skeptical about BLM's argument that the rule is designed to prevent waste, i.e. methane venting, and not to assume EPA's clean air responsibility. The oil and gas industry argue in their suit that BLM has no authority over Clean Air Act regulation; only EPA does. Said the judge, "The Court questions whether the 'social cost of methane' is an appropriate factor for BLM to consider in promulgating a resource conservation rule pursuant to its [Mineral Leasing Act] authority."

On April 20 EPA stayed a deadline for compliance with its rule for 90 days beyond a June 3, 2017, deadline. Six national environmental groups asked a federal court June 5 to force EPA to immediately implement the rule.

The environmental groups, including the Sierra Club, argued to the U.S. Court of Appeals for the District of Columbia that the Administrative Procedures Act does not allow EPA to postpone implementation of its rule.

In an initial delay announcement EPA administrator Scott Pruitt said the law allows reconsideration of a regulation if there are objections to the substance of it. In this instance, EPA said, the American Petroleum Institute (API) had delineated substantive objections to several provisions of the rule, justifying reconsideration. The EPA rule is designed to identify and repair gas leaks.

But, said the environmental groups, "In fact, all of the issues Administrator Pruitt identified could have been, and actually were, raised (and extensively deliberated) during the comment period. Further, these objections are not centrally relevant, as they go at most to discrete, severable elements of those requirements and provide no justification for reconsidering and staying the entire leak detection and repair program."

The substantive provisions API objected to in the EPA rule include such things as the identification of fugitive emissions, engineer certification and technical infeasibility.

In a stunning reversal for the Trump administration the Senate May 10 backed the Obama methane rule by a narrow 51-to-49 vote, defeating a resolution to revoke the regulation.

As a result it first appeared that opponents of the BLM rule faced a laborious administrative rewrite/removal of the regulation, or a fight in the federal courts. But the proposed June 14 delay may give BLM time to rewrite or revoke the November 2016 BLM rule.

President Trump on March 28 included the BLM methane rule in his list of Obama administration energy regulations that he wants BLM to review for possible revision. He also directed EPA to review its methane rule for possible revision/revocation.

The Trump executive order says BLM and EPA "if appropriate, shall, as soon as practicable, suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules."

BLM retirees support Trump excess wild horse proposal

A coalition of BLM retirees last week backed a Trump administration proposal to remove limits on the sale of unadoptable wild horses.

Wild horse advocates say the proposal – which would have to be approved by Congress in an appropriations bill – would lead to the slaughter of thousands of wild horses and burros.

But the retirees, marching as the Public Lands Foundation, said the bureau needs the authority to reduce the overpopulation of wild horses on the public range, and to reduce the cost of corralling excess horses.

"Restrictions on the sale of excess unadoptable wild horses and burros have resulted in the permanent loss of increasingly larger areas of properly functioning rangelands while at the same time destroying wildlife habitat and creating inhumane conditions for the animals themselves," foundation president Jesse J. Juen wrote House and Senate Appropriations Committee leaders June 5.

He added, "The inability to sell horses and burros without limitation, coupled with a decrease in adoptions and an exponential increase in numbers has resulted in an unsustainable, unmanageable program."

The BLM retirees' opinion matters because they are experienced managers of the public lands, they often reflect the thinking of current bureau professionals and, as retirees, they are free to speak their minds.

The Trump administration proposed the change in managing excess animals in releasing its fiscal year 2018 budget request. The proposal would have appropriators exclude from a fiscal 2018 money bill a traditional provision that forbids the sale of excess wild horses for slaughter. That is the fix the retirees support.

The appropriations language says federal, state or local governments taking custody of excess animals can't "destroy the horses or burros in a way that results in their destruction into commercial products; sell or otherwise transfer the horses or burros in a way that results in their destruction for processing into commercial products; or euthanize the horses or burros except upon the recommendation of a licensed veterinarian, in cases of severe injury, illness, or advanced age."

That language is sacred to wild horse advocates. "The BLM wants to slaughter thousands of iconic wild horses by selling them to kill buyers to save $4 million and cover up its gross mismanagement and incompetence in managing the federal wild horse and burro program," said Suzanne Roy, executive director of the American Wild Horse Preservation Campaign, the nation's leading wild horse protection organization.

"This outrageous and lethal budget is completely counter to the will of the American people, who overwhelmingly oppose horse slaughter and support protecting mustangs and burros on our Western public lands," Roy said.

The Trump budget proposal follows the Sept. 9, 2016, recommendation of the National Wild Horse and Burro Advisory Board that BLM sell off as many of the 46,000 corralled excess wild horses as it could. Then it recommended BLM authorize the euthanatization of unadoptable animals.

At the time BLM said in a statement, "We will continue to care for and seek good homes for animals that have been removed from the range. The BLM does not and will not euthanize healthy animals."

The Trump budget says, "The budget proposes to eliminate appropriations language restricting the BLM from using all of the management options authorized in the Wild Free-Roaming Horse and Burro Act."

"The long-term goal is to realign program costs and animal populations to more manageable levels, enabling the BLM to reorient the WH&B program back to these traditional management strategies."

With fewer horses to manage the BLM wild horse and burro program would need less money, said the administration in proposing a $10 million reduction in fiscal 2018 appropriations, from $80.6 million in fiscal 2017 to $70.7 million.

BLM annually sells only about 2,000 to 2,500 wild horses for adoption, so we are talking about euthanizing more than 40,000 animals. The alternative is to continue to corral the more than 45,000 wild horses at a cost of $50 million per year.

In addition there are nearly 70,000 wild horses and burros on the public range, or three times what BLM considers the appropriate management level of 27,000.

The livestock industry, upset about the impacts of an overpopulation of wild horses on the public range, at the time praised the advisory board recommendation. "As a stakeholder group that both cares for animals professionally and works the very rangelands currently being degraded by this growing problem, we are glad to see the Advisory Board take heed of this epidemic and recommend plausible management changes," said Dave Eliason, Public Lands Council president.

The livestock industry charges that excess wild horses and burros not only damage the public range but also induce BLM to reduce livestock grazing.

Some western Congressmen such as Rep. Chris Stewart (R-Utah) have a different solution - put the states in charge. Stewart has introduced a bill (HR 3172) that would require the Interior Department or the Forest Service to cede management of wild horses and burros to states or Indian tribes if a legislature or governor so requested.

The Public Lands Foundation letter is available at: http://publicland.org/wp-content/uploads/2017/06/Letter-to-Approps-on-Wild-Horse-and-Burro.pd.

Report repeats argument that big monuments make money

Earlier studies already made a similar case, but the Headwaters Economics research firm reasserts in a new report the designation of national monuments probably helps local economies.

Concluded the report, "The study found no evidence that designating these national monuments prevented economic growth. Instead, trends in key economic indicators such as population, employment, personal income, and per

capita income either continued or improved in each of the regions surrounding the national monuments."

That is not exactly new news. Headwaters itself published similar analyses assessing the economic impact of national monuments in 2011 and 2014. All three studies analyzed the same 17 national monuments of more than 10,000 acres in 11 western states designated between 1982 and 2001.

What did matter was the timing of the most recent report, released just before Secretary of Interior Ryan Zinke June 12 submitted a preliminary report to President Trump recommending a reduction in the size of Bears Ears National Monument in southern Utah. *(See related article page one.)*

In his report Zinke also addressed 26 other national monuments his department is studying for possible reduction/revocation. That report is due later this year.

The report from Headwaters, a nonprofit research group based in Montana, concluded, "The Headwaters Economics 2017 review confirms that all the regional economies adjacent to the studied national monuments experienced growth following a monument's designation. National monuments help nearby communities diversify economically while increasing quality of life and recreational opportunities that make communities more attractive for new residents, businesses, and investment."

Utah officials have a different take. Utah Public Lands Policy Coordinating Office Director Kathleen Clarke described the designation of Bears Ears and Grand Staircase as an economic failure to the House Natural Resources Committee May 2.

"Families that have lived for generations in affected communities find their families torn apart due to lack of employment opportunities for the next generation. Populations are declining," she testified. "In the 20 years since the creation of the Grand Staircase (Escalante National Monument), school enrollment in Escalante has gone from 150 to 57 students. Neither seasonal employment associated with tourism and recreation, nor the rotating positions of BLM employees, contribute to the overall stability of these small communities."

The Grand Staircase monument was designated in 1996 and extends over almost 1.9 million acres.

The Headwaters study included Grand Staircase, but it did not include Bears Ears, which was just designated on Dec. 28, 2016. Again, the cut-off date for the study was for monuments designated prior to 2001.

Of Grand Staircase, Headwaters takes issue with Utah's Clarke. It summarized, "The communities in Garfield and Kane counties, Utah neighboring the Grand Staircase-Escalante National Monument experienced strong growth after the designation of the monument, continuing previous growth trends."

Headwaters said between 2001 and 2015 jobs in the Grand Staircase area increased by 24 percent, personal income by 32 percent and per capita income by 17 percent.

Clarke does note that 11.375 billion tons of coal are located in the monument along the Kaiparowits Plateau and are off-limits to development.

Both the Headwaters report (17 monuments) and the Zinke review (22 monuments in the West) include 14 of the same monuments including Canyons of the Ancients, Colorado; Carrizo Plain, California; Cascade-Siskiyou, Oregon; Craters of the Moon, Idaho; Giant Sequoia, California; Grand Canyon-Parashant, Arizona and Utah; Grand Staircase Escalante, Utah; Hanford Reach, Washington; Ironwood Forest, Arizona; Organ Mountains-Desert Peaks, New Mexico; Rio Grande del Norte, New Mexico; Sonoran Desert, Arizona; Upper Missouri River Breaks, Montana; and Vermilion Cliffs, Arizona.

The Headwaters report is available at: https://headwaterseconomics.org/public-lands/protected-lands/national-monuments/

IBLA decisions

(We post current Interior Board of Land Appeals decisions at our website, *http://www.plnfpr.com/ibla.htm*. IBLA may be contacted at: Interior Board of Land Appeals, 801 North Quincy St., MS 300 QC, Arlington, VA 22203. Phone (703) 235 3750.)

Subject: Oil and gas lease suspension.
BLM decision: BLM will deny a request for suspension of three leases because the request was submitted after a deadline.
Appellant lessee: BLM should not have denied the suspension because BLM stayed a deadline for the lessee to describe lands to be eliminated from a unit agreement.
IBLA decision: Affirmed BLM, the stay on unit agreement information has nothing to do with suspension deadline.
Case identification: *Willsource Enterprise, LLC. 190 IBLA 225*. Decided May 31, 2017. Ten pages. Appeal from a decision by the Colorado State Office of BLM, upholding the denial of a request to suspend operations and production on Federal oil and gas leases. SDR CO-14-10.
IBLA argument: IBLA Administrative Judge James K. Jackson affirmed a BLM denial of a request for a suspension of three oil and gas leases. The appellant had argued that BLM had granted it a stay on submittal of information on a separate issue - a description of leases eliminated from a unit agreement - and that stay should have kept alive the appellant's request for lease suspensions. But Jackson said the stay didn't apply and the fact remains the appellant applied for lease suspensions long after a deadline. Jackson said that the only thing stayed, "therefore, was the time frame within which (the appellant) had been required to provide the documents." The IBLA decision is closely related to a separate board decision of May 9 (*Willsource Enterprise, LLC. 190 IBLA 138*) holding that the same appellant failed to describe nonparticipating lands in the unit agreement at the five-year point of the unit, thus eliminating the leases from the unit agreement. The same three leases were involved in both decisions.

(IBLA order: The following is an order, not a decision.)

Subject: Grazing settlement agreement.
BLM decision: BLM will settle a lawsuit objecting to grazing levels with an environmental group plaintiff.
Administrative law judge decision: Approved the settlement agreement.
Separate appellant environmental group: The agreement approved by the judge constitutes a new livestock grazing decision the second group disagrees with.
IBLA order: IBLA Administrative Judge James F. Roberts denied a request for a stay and dismissed the appeal of a grazing agreement because a second environmental group appealing the agreement did not have standing to appeal. He said the second environmental group - Wildlands Defense - did not demonstrate that its members have visited the project area. Of interest the attorney filing the appeal for Wildlands Defense, Katie Fite, for several years worked for the environmental group that agreed to the settlement agreement, Western Watersheds Project. Fite litigated the case for

Western Watersheds for more than two years before leaving the organization to join Wildlands Defense.
Case identification: *Wildlands Defense, IBLA 2017-13.* May 24, 2017. Nine pages.

Notes

Bernhardt nomination moves up. Although only two non-Republicans voted for him, the Senate Energy Committee June 6 approved the nomination of David Bernhardt to be Deputy Secretary of the Interior. Sens. Joe Manchin (D-W.Va.) and Angus King (I-Maine) were the two non-Republicans to approve the nomination. The committee vote was 14-to-9, promising a fierce, if unsuccessful floor fight against the nomination. Environmentalists have mounted an all-out campaign because of Bernhardt's past record as an attorney for commercial users of the public lands. The League of Conservation Voters is leading the charge, writing a blanket letter to senators, "With his long history of lobbying for the very industries under DOI's purview - creating numerous conflicts of interest - and his proximity to ethics scandals during his previous tenure at DOI, Bernhardt's ability to put the public interest first is questionable, if not impossible." Bernhardt was employed most recently by the law firm Brownstein Hyatt Farber Schreck LLP, where he represented energy and mining companies and the Westlands Water District in California. President Trump has yet to submit nominees for BLM director, Fish and Wildlife Service director and Park Service director.

Colorado roadless coal mine moving. The Forest Service June 8 proposed for the second time to support the lease of 1,700 acres in a roadless area of the Gunnison National Forest for expansion of a coal mine. The leases, sought by Arch Coal Co., have been contested by environmental groups since Arch first sought the lease acreage in January 2009. In September 2014 Judge R. Brooke Jackson in the U.S. District Court for Colorado ruled that an EIS covering the coalmine expansion was inadequate because it failed to assess the impacts of coal development *and* coal burning on climate change. In the first step of a two-step process the Forest Service on April 17 declared valid an exemption for the mine in a Colorado roadless rule. That opened the way for step two, the processing of Arch Coal Company's application to lease the 1,700 acres in the Gunnison. Ted Zukoski, an attorney with the non-profit law firm Earthjustice, promised to contest Arch's application. "We'll keep fighting Trump's damaging mining plan because we need to protect what Coloradans love best about our state: clean air, scenic mountains, healthy streams, and vibrant wildlife populations," he said. The draft EIS is available at: http://a123.g.akamai.net/7/123/11558/abc123/forestservic.download.akamai.com/11558/www/nepa/68608_FSPLT3_3992911.pdf.

Conference Calendar

JUNE

21-23. **Independent Petroleum Association of America mid-year Meeting**, in Laguna Niguel, Calif. Contact: Independent Petroleum Association of America, 1201 15th Street N.W., Suite 300, Washington, DC 20005. (202) 857-4722. http://www.ipaa.org.

26-28. **Western Governors' Association Annual Meeting** in Whitefish, Mont. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202. (303) 623-9378. http://www.westgov.org.

JULY
12-14. **The International Convention of Allied Sport Fishing Trade Show** in Orlando, Fla. Contact: American Sport fishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. http://www.asafishing.org.

12-15. **National Cattlemen's Beef Association Summer Meeting** in Denver. Contact: National Cattlemen's Beef Association, 9110 East Nichols Avenue Suite 300 Centennial, CO 80112. (303) 694-0305. http://www.beef.org/

20-22. **63nd Annual Rocky Mountain Mineral Law Institute** in Santa Fe, N.M. Contact: Rocky Mountain Mineral Law Foundation, 9191 Sheridan Blvd., #203, Westminster, CO 80031. (303) 321-8100. https://www.rmmlf.org.

21-24. **National Association of Counties Annual Conference** in Franklin County, Ohio. 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.

26-29. **Outdoor Retailer Summer Market** in Salt Lake City, Utah. Contact www.outdoorretailer.com/summer-market.

AUGUST
2-4. **Western Energy Alliance Annual Meeting** in Vail, Colo. Contact: Western Energy Alliance, 410 17th St., Suite 700, Denver, CO 80202. http://westernenergyalliance.org

10-15. **American Bar Association Annual Meeting** in New York, N.Y. Contact: American Bar Association, 321 North Clark St., Chicago, IL 60610. (312) 988-5870. http://www.abanet.org.

19. **American Fisheries Society Annual Meeting** in Orlando, Fla. Contact: American Fisheries Society, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199. (301) 897-8616. http://www.fisheries.org http://fisheries.org/.

Federal Parks & Rec

Addendum to Public Lands News
June 16, 2017

** Zinke defends employee reductions, backs maintenance*
** Simpson introduces combined LWCF/maintenance bill*
** Trump infrastructure roll out includes few details*
** Notes*
** Monuments (See Public Lands News articles)*

Zinke looks to partnerships to replace fewer employees

If Secretary of Interior Ryan Zinke gets his way - and in the early going various legislators indicate it's not likely, the Park Service and other federal land management agencies will be put on a strict diet.

The Interior Department budget would reduce employee levels by six percent, from 64,000 to 60,000 full-time equivalents. For the Park Service alone the budget would take away 1,242 jobs, reducing the number of full-time equivalent employees from 19,510 to 18,268.

Perhaps to take up the slack Zinke told the House subcommittee on Interior appropriations June 8 that he would expand the use of public-private partnerships.

On partnerships Zinke said, "The budget does encourage some important things. It encourages innovation. It encourages us to look at public-private partnerships when we can, particularly in the national parks, to move people when you have 330 million coming through our park system."

"Some of our parks are at capacity and maybe more," he added. "We need to look at public-private partnerships to move people. I don't particularly want to be in the industry of transportation but I think there are some great people out there to move people more efficiently."

Subcommittee chairman Ken Calvert (R-Calif.) warned Zinke that Congress will ultimately decide spending priorities. "The budget request for your department may not be exactly what you would have proposed but ultimately Congress will have the final say over the fiscal year 2018 budget," he said.

Ranking subcommittee Democrat Betty McCollum (D-Minn.) took on the proposed reduction in employees. "Being a good steward for (the public lands) requires robust investment both in resource management and staffing to carry it out," she said. "The staffing reductions proposed in this budget and the long-term workforce reduction plan you are developing do not provide any assurance that you will be able to properly execute your responsibilities in this department."

Of a long-term budget reduction plan, the fiscal 2018 Interior Department budget request says, "Interior is moving prudently with implementation and has put in place hiring controls to enable limited hiring, prioritizing filling field positions rather than office positions, and limiting hires in the Washington, D.C., and Denver, Colorado, areas. This process enables the Department to continue to fill important positions as work is underway to develop a comprehensive and thoughtful agency plan."

Zinke would spend more fiscal year 2018 money in one area - backlog maintenance for the Park Service.

Rep. Mike Simpson (R-Idaho) said at the hearing he has his own plan for paying off the backlog. He introduced a bill (HR 2863) June 8 that would use Land and Water Conservation Fund (LWCF) money for federal land management agency maintenance at a guaranteed $450 million per year. The bill would also guarantee $450 million per year for LWCF. *(See following article.)*

Zinke said the Trump administration budget would address the maintenance backlog but would not authorize new land acquisition under LWCF.

"When it comes to infrastructure we plan on taking care of what we have, a reduction in LWCF simply (means) no more acquisitions," he said. "But we're going to take care of what we have. I'm concerned as you are about infrastructure."

He singled out the Arlington National Cemetery. "If you want to look at an example of our infrastructure I invite you to go to Arlington, to hallowed ground. It is a national disgrace. The shutters need to be

replaced. The foundation is leaning. The gardens are inappropriate and that reflects where we are (overall) in infrastructure."

He also singled out Arlington Memorial Bridge, which requires $250 million in repairs, roughly the entire annual roads budget of the Park Service.

Zinke said that despite a tight fiscal 2018 budget request (i.e. an overall 13 percent reduction for the Interior Department), the Trump administration does propose a $35 million increase for Park Service infrastructure.

In the budget request the administration is asking for across-the-board cuts in operational spending for federal land management agencies. Even the Park Service is not exempt, with a proposed $200 million reduction for operations, down from $2.425 billion in fiscal 2017 to $2.225 in fiscal 2018.

The federal side of the Land and Water Conservation (LWCF) is in for a big cut of $138 million, from $189 million in fiscal 2017 to $51 million in fiscal 2018.

The state side of LWCF would receive $3 million, compared to $110 million in fiscal 2017, but the budget would have Congress allocate an additional $90 million from Gulf of Mexico offshore oil and gas royalties to the program, for a conditional total of $93 million. That of course assumes Congress changes the law.

The pattern of decreases continues for other agencies with the National Forest System in for a $120 million reduction and the Bureau of Land Management in for a $132 million reduction.

Democrats have an overall counterproposal. They are asking their Republican colleagues to reject a Trump administration plan to take $54 billion out of domestic spending and shift it to Defense spending.

Here are some numbers in the fiscal 2018 Trump budget, compared to the final fiscal 2017 numbers:

LWCF FEDERAL ACQUISITION: The fiscal 2018 proposal recommends an appropriation of $51 million compared to a fiscal 2017 appropriation of $188.8 million.

Here is the agency-by-agency LWCF distribution: the Bureau of Land Management (BLM) would receive $3.6 million compared to $31.4 million in fiscal 2017; the Fish and Wildlife Service (FWS) would receive $17.1 million compared to $50 million; the Park Service would receive $23.3 million compared to $42 million; and the Forest Service would receive $7 million compared to $54.4 million.

LWCF STATE: The fiscal 2018 proposal recommends an appropriation of $3 million, compared to $110 million in fiscal 2017. But the budget also proposes to boost state side revenues with $90 million from Gulf of Mexico oil and gas royalties, for a total of $93 million in fiscal 2018. Congress would have to approve legislation to provide the offshore oil and gas money, no sure thing.

PARK SERVICE OPERATIONS: The fiscal 2018 proposal recommends an appropriation of $2.225 billion, compared to a fiscal 2017 appropriation of $2.425 billion.

CENTENNIAL CHALLENGE GRANTS: The fiscal 2018 proposal recommends an appropriation of $15 million, compared to a fiscal 2017 appropriation of $20 million.

PARK SERVICE RECREATION AND PRESERVATION: The fiscal 2018 proposal recommends an appropriation of $37 million, compared to a fiscal 2017 appropriation of $62.6 million.

NATIONAL HERITAGE AREAS: The fiscal 2018 proposal recommends $1 million in administrative support, compared to a fiscal 2017 appropriation of $19.8 million.

PARK SERVICE CONSTRUCTION: The fiscal 2018 proposal recommends an appropriation of $226.5 million, compared to a fiscal 2017 appropriation of $209.4 million.

PARK SERVICE HISTORIC PRESERVATION: The fiscal 2018 proposal recommends an appropriation of $51.1 million, compared to a fiscal 2017 appropriation of $80.9 million.

SAVE AMERICA'S TREASURES: The fiscal 2018 proposal recommends no appropriation, compared to a $5 million appropriation in fiscal 2017.

STATE WILDLIFE CONSERVATION GRANTS: The fiscal 2018 proposal recommends an appropriation of $52.8 million, compared to a fiscal 2017 appropriation of $82.6 million.

NATIONAL FOREST SYSTEM: The fiscal 2018 proposal recommends an appropriation of $1.747 billion, compared to a fiscal 2017 appropriation of $1.513 billion, but the Trump budget would include in forest management $354 million for hazardous fuels management. Deducting the hazardous fuels management the National Forest System would receive $120 million less.

FOREST SERVICE RECREATION: The fiscal 2018 proposal recommends an appropriation of $252.9 million, compared to a fiscal 2017 appropriation of $264.6 million.

FOREST SERVICE TRAILS: The fiscal 2018 proposal recommends an appropriation of $12.7 million, compared to a fiscal 2017 appropriation of $77.5 million.

FOREST LEGACY: The fiscal 2018 proposal recommends no appropriation, compared to a $62.3 million appropriation in fiscal 2017.

BLM RESOURCE MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $963 billion, compared to a fiscal 2017 appropriation of $1.095 billion.

BLM RECREATION MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $62.7 million, compared to a fiscal 2017 appropriation of $71.7 million.

NATIONAL LANDSCAPE CONSERVATION SYSTEM: The fiscal 2018 proposal recommends an appropriation of $27.7 million, compared to a fiscal 2017 appropriation of $36.8 million.

FWS REFUGE MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $470 million, compared to a fiscal 2017 appropriation of $483.9 million.

Rep. Simpson would put LWCF, fed maintenance in one pot

Rep. Mike Simpson (R-Idaho) launched a novel campaign June 8 that, in one bill (HR 2863), would guarantee money for both the Land and Water Conservation Fund (LWCF) and federal land management agency maintenance.

Simpson said he has not identified a source of money for the bill – always the hang-up in such campaigns. But he said President Trump's trillion-dollar infrastructure program might do the trick.

Before introducing HR 2863 Simpson said at a June 8 hearing of the House subcommittee on Interior appropriations, "We still have to find the offset for it, but we're hoping that maybe we can work that into the infrastructure package because it is infrastructure, the backlog is." The subcommittee was holding a hearing on the Interior Department's fiscal year 2018 budget request with secretary Ryan Zinke.

Simpson said his bill would guarantee $900 million per year total: "The lands bill is going to reauthorize the Land and Water Conservation Fund for seven years under mandatory funding, with half of it going to (LWCF) split between the state and federal sides and half to be used for backlog maintenance for our parks and other land management agencies, $450 million per year. Hopefully, that would address maintenance backlog in these various agencies."

Secretary of Interior Ryan Zinke at the subcommittee hearing said the Trump administration budget would address the maintenance backlog but would not authorize new land acquisition under LWCF.

"When it comes to infrastructure we plan on taking care of what we have. A reduction in LWCF simply (means) no more acquisitions," he said. "But we're going to take care of what we have. I'm concerned as you are about infrastructure."

He singled out the Arlington National Cemetery. "If you want to look at an example of our infrastructure, I invite you to go to Arlington, to hallowed ground. It is a national disgrace. The shutters need to be replaced. The foundation is leaning. The gardens are inappropriate and that reflects where we are (overall) in infrastructure."

Zinke said that despite a tight budget request (i.e. an overall 13 percent reduction for the Interior Department), the Trump administration does propose a $35 million increase for Park Service infrastructure.

However, the Forest Service budget tells a different story. It proposes a decrease of $264 million for infrastructure, dropping from $364 million in fiscal 2017 to $100 million. (The administration suggests some of that might be made up in a $1 trillion Trump infrastructure program.)

The American Lands Rights Association rang the alarm on LWCF funding among its members the same day HR 2863 was introduced. "The LWCF must not be permanently renewed (Simpson would only extend it for seven years). That is a major step toward a huge billion dollar per year land acquisition trust fund," the association said in a bulletin to its members.

Sen. Jon Tester (D-Mont.) for one supports LWCF and opposes blanket federal land transfers. On June 7 at a hearing of the Senate subcommittee on Interior Appropriations on the Forest Service he complained that in President Trump's fiscal year 2018 budget request, "LWCF is being zeroed out." Then Tester tied the proposed 84 percent reduction in spending for infrastructure in the Forest Service budget request to the disposal of federal lands.

"I'm going to tell you there is a movement in this country to sell our public lands," he told Forest Service Chief Tom Tidwell. "My concern with the budget is we don't have access to trails, our roads aren't being done, our facilities can't be kept up, the trees aren't being managed in a manner that makes sense for the next generation. It just gives more ammunition to the short-sighted people out there who want to sell our public land. They want to do away with our outdoor economy, and they want to make Montana into a different place."

At a hearing of the House subcommittee on Interior Appropriations May 25 Simpson said, "There's a movement to have the states take over all the federal lands. I don't see that happening either. It would not happen and I don't want it to happen because quite frankly we live in Idaho because we love our public lands."

In raw numbers the fiscal 2018 Trump budget request would slash the federal side of LWCF by $138 million, from $189 million in fiscal 2017 to $51 million in fiscal 2018. The state side of LWCF would receive $3 million, compared to $110 million in fiscal 2017, but the budget would have Congress allocate an additional $90 million from Gulf of Mexico offshore oil and gas royalties to the program, for a conditional total of $93 million. That of course assumes Congress changes the law.

The Forest Service Forest Legacy program, which is financed by LWCF revenues, would receive no money, compared to $62.3 million in fiscal 2017.

Here are the LWCF budget request numbers compared to fiscal 2017 appropriations:

LWCF FEDERAL ACQUISITION: The fiscal 2018 proposal recommends an appropriation of $51 million compared to a fiscal 2017 appropriation of $188.8 million.

By agency: the Bureau of Land Management would receive $3.6 million compared to $31.4 million in fiscal 2017; the Fish and Wildlife Service would receive $17.1 million compared to $50 million; the Park Service would receive $23.3 million compared to $42 million; and the Forest Service would receive $7 million compared to $54.4 million.

LWCF STATE: The fiscal 2018 proposal recommends an appropriation of $3 million, compared to $110 million in fiscal 2017. But the budget also proposes to boost state side revenues with $90 million from Gulf of Mexico oil and gas royalties, for a total of $93 million in fiscal 2018. Congress

would have to approve legislation to provide the offshore oil and gas money, no sure thing.

Infrastructure roll-out includes no park & rec details

President Trump last week asserted that his administration is getting serious about a $1 trillion infrastructure program.

But in the course of a week-long infrastructure campaign the administration put no meat on the bones. It just said that $200 billion of the $1 trillion would come from federal money in the form of tax reforms over ten years, or $20 billion per year. The rest of the money would presumably come from partnerships with private enterprise coordinated with state and local governments.

However, there are hints as to how park and rec programs may participate. For one, the fiscal year 2018 Forest Service budget request proposes a huge $264 million decrease for infrastructure, decreasing from $364 million to $100 million. That lost $264 million may be picked up by the $1 trillion Trump program.

Separately, Rep. Mike Simpson (R-Idaho) introduced legislation (HR 2863) June 8 that would use $450 million per year of Land and Water Conservation Fund money for federal land management agency maintenance. Simpson said the source of the money could be Trump's infrastructure program. *(See previous article.)*

Until the Trump administration and its Republican allies figure out how to pay for the infrastructure program, there is likely to be little movement on Capitol Hill. Both the House Transportation Committee and the Senate Environment and Public Works Committees have held preliminary hearings.

As most players know the problem with infrastructure programs is money. For decades various administrations and Congressional leaders from both parties have sought money for surface transportation, with limited success. On Dec. 4, 2015, President Obama did sign into law (PL 114-94) a surface transportation bill that provides outdoor programs with more than $850 million per year for five years.

The House and Senate generated that legislation only after identifying "gimmicky" funding sources beyond the Highway Trust Fund, which is barely contributing half of the needed $300 billion.

So now comes the Trump administration with its far broader and far more ambitious infrastructure program. Once again the Highway Trust Fund is expected to help out, but most observers believe Congress will rely more on tax reform revenues, such as repatriation from domestic companies operating oversees. And partnerships with private industry.

If and when an infrastructure bill is put together, it holds the potential for significant park and recreation assistance.

Forest Service maintenance: At a Senate Appropriations Committee hearing on the Forest Service budget June 7 chairman Lisa Murkowski (R-Alaska) and ranking Democrat Tom Udall (D-N.M.) chided chief Tom Tidwell for the proposed maintenance reduction.

Tidwell responded that money for those projects may be in the offing in President Trump's infrastructure plan.

He said the $100 million appropriation would be used "to maintain a workforce that will implement critical infrastructure maintenance projects on National Forest System lands and remain ready to implement additional improvements that could be funded through the Administration's infrastructure initiatives."

Simpson LWCF bill: Simpson's bill would allocate $450 million per year of Land and Water Conservation Fund (LWCF) money for federal land management agency maintenance. "The lands bill which is going to reauthorize the (LWCF) for seven years under mandatory funding, with half of it going to (LWCF) split between the state and federal sides and half to be used for backlog maintenance for our parks and other land management agencies, $450 million per year," said Simpson. "Hopefully, that would address maintenance backlog in these various agencies."

Before introducing HR 2863 Simpson said at a June 8 hearing of the House subcommittee on Interior appropriations, "We still have to find the offset for it, but we're hoping that maybe we can work that into the infrastructure package because it is infrastructure, the backlog is." The subcommittee was holding a hearing on the Interior Department's fiscal year 2018 budget request with Secretary Ryan Zinke.

Here are a couple of other contenders for infrastructure money.

NPS Legacy Act: Four senators led by Sen. John Portman (R-Ohio) introduced legislation (S 751) March 28 that would establish an ambitious fund that would guarantee as much as $500 million per year for Park Service maintenance.

The money would be drawn from mineral development revenues and would not be subject to appropriations. However, House and Senate Appropriations Committees would have to sign off on annual priority project lists submitted by NPS.

For fiscal years 2018, 2019 and 2020 the bill would allocate $50 million per year for the NPS maintenance backlog.

For the next three fiscal years it would set aside $150 million per year. For the next three fiscal years after that it would set aside $250 million per year. And from fiscal 2027 through fiscal 2047 it would put up $500 million per year.

Eighty percent of the money would be used for non-transportation projects and 20 percent for transportation. More than half of the total NPS maintenance backlog is made up of transportation projects, but a surface transportation law already allocates more than $270 million per year to Park Service highway maintenance.

Recreation industry proposal: The recreation industry in February asked Congress to include a recreation title in any infrastructure legislation it develops this year, with an emphasis on private investment.

The industry representatives, organized as the Outdoor Recreation Industry Roundtable (ORIR), is calling on Congress to:

(1) embrace private investments such as those that have in the past paid for the construction of Park Service lodges and national forest ski resorts;
(2) allocate infrastructure bank investments to recreation projects for lodging, marinas, campgrounds, etc.;
(3) invest revenues from federal recreation fees in projects; and
(4) approve more public-private initiatives such as the Park Service Centennial Challenge program, which matches private contributions to the national parks with federal appropriations.

ORIR members include the National Ski Areas Association, the National Marine Manufacturers Association, the International Snowmobile Manufacturers Association, the American Sportfishing Association and the Outdoor Industry Association, to name a few.

Notes

Grand Canyon bison plan eyed. The environmental group Public Employees for Environmental Responsibility (PEER), which opposes any "cattalo" in Grand Canyon National Park, is praising the Trump administration for attempting to remove the animals. Cattalo are a mixed breed of bison and cattle that PEER says are not native to Grand Canyon and should be moved out. In May the Park Service proposed a three-year plan to reduce the population from 600 to 200. But PEER says NPS should look beyond three years and eliminate the cattalo altogether. "While the (draft environmental assessment) posits that it is restricted to consideration of 'short-term management options,' the lack of any identified process for even beginning to address long-term management risks the short-term evolving into GCNP's long-term posture," PEER told the park. "We welcome Grand Canyon taking this belated first step but it needs a follow-up," said PEER Executive Director Jeff Ruch. "Our principal concern is that this short-term action could morph into the park's long-term position by failure to pursue complete removal of the cattalo."

NRPA teaming up with Citi on local parks. The National Recreation and Park Association (NRPA) announced last week that is teaming with the Citi bank to revitalize neighborhood parks. Local park and recreation officials in nine agencies will work directly with Citi employees on projects from New York to Arizona. To learn more about NRPA corporate partnership opportunities, visit www.nrpa.org/.

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Zinke tells Trump Bears Ears monument is too large

Secretary of Interior Ryan Zinke June 12 recommended that President Trump reduce the size of the Bears Ears National Monument in southern Utah, touching off a political firestorm.

As part of an administration-wide review of the designation of 27 large national monuments, Zinke told the President, "I've submitted my 45-day interim report to President Trump expressing my belief that the monument needs to be right-sized and that it is absolutely critical that an appropriate part be co-managed by the Tribal nations. I also recommend that Congress take action to protect some areas."

Zinke did not say how much land should be trimmed from Bears Ears, saying he needs time to figure that out. He is expected to submit a precise recommendation by the end of August.

The recommendation was met with applause by the all-Republican Utah Congressional delegation, which has been championing for either a reduction in size

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of Bears Ears or a revocation of the Dec. 28, 2016, designation of the 1.35 million-acre monument by President Obama.

Said House Natural Resources Committee Chairman Rob Bishop (R-Utah, "This is positive news for the State of Utah and local communities affected by the Bears Ears monument designation. Anyone with honest intentions recognizes that local input should matter when the federal executive makes a decision of this magnitude. I commend Secretary Zinke for actually listening to local voices on the issue and conducting a thoughtful and deliberative review to help inform the President's ultimate decision."

If President Trump accepts Zinke's recommendation, a likelihood, it raises the possibility of a lawsuit under the Antiquities Act of 1906. That law authorizes a President to designate national monuments, but some experts question whether it authorizes the de-designation of monuments, or significant portions of monuments.

The environmental group The Wilderness Society promised all-out war. "The Trump administration's announcement today on Bears Ears is nothing less than an attack on the future of all American monuments, parks and public lands," said Jamie Williams, society president.

The society said that if Trump follows through on Zinke's recommendation, "The Wilderness Society will take all steps necessary to defend Bears Ears and the Antiquities Act against these attacks - including legal action."

President Trump started the ball rolling April 26 when he signed an executive order directing the Interior Department to review the designation of national monuments of more than 100,000 acres made since 1996. Trump did not take the ultimate step and say he had the authority to revoke those designations.

The 100,000-acre limit applies to 21 national monuments in the West, plus an 87,500-acre Katahdin Woods and Waters National Monument in Maine and five huge marine monuments. That's 27 total.

Zinke met in Maine June 14 with critics and supporters of the Katahdin national monument, which is managed by the Park Service.

Zinke has suggested that he is more interested in reducing the size of monuments than the outright revocation of them. As he said after Trump kicked off the review, "Historically, the Act calls for the President to designate the 'smallest area compatible with proper care and management of the objects to be protected.' Despite this clear directive 'smallest area' has become the exception and not the rule."

The public comment period on Bears Ears ended May 26. Trump's executive order asked for a recommendation from Zinke by June 10. The recommendation was submitted June 12. The comment period for the other 26 monuments runs through July 9. At press time more than 150,000 comments had been submitted on Bears Ears. However, the Sierra Club counts more than 685,000 comments opposing any change to Bears Ears.

Sportsmen also criticized Zinke's plan. Backcountry Hunters and Anglers President Land Tawney said, "An attack on one monument is an attack on them all. Public lands sportsmen will not stand idly by while these attacks unfold. Backcountry Hunters & Anglers will continue to stand up for our national monuments, the opportunities they represent and the legacy they protect and sustain."

The liberal Center for American Progress attacked Zinke personally for advocating retention of federal lands in the public domain while at the same time moving to mar those lands with commercial activities.

Said Jenny Rowland, research and advocacy manager for the Public Lands Project at the center, "Zinke has attempted to draw a fine line between advocacy for the wholesale sell-off of public lands and the sell-out of public lands to the fossil fuel industry. As much as Zinke has tried to distance himself from the former, he has been consistently clear that he is willing to bend the rules for the oil and gas industry."

Democratic leaders wrote Zinke May 25 asking him not to recommend major monument changes. "As public servants, we have a moral obligation to protect America's natural places - our outdoor heritage - and important cultural and historic landmarks for our children and grandchildren to enjoy," they wrote. "For these reasons, we urge you to reject any attempt to diminish or eliminate national monuments in carrying out the President's executive order."

Signing the letter were House Democratic Leader Nancy Pelosi (Calif.), House Democratic Whip Steny H. Hoyer (Md.), Senate Democratic Leader Charles E. Schumer (N.Y.), and Senate Democratic Whip Dick Durbin (Ill.)

Utah Republican Sens. Mike Lee and Orrin Hatch, who prodded Trump to begin the review as soon as he was elected, are all in. They wrote Trump last month, "No president has seriously revisited the modern, expansive use of the Antiquities Act (of 1906). We urge you to keep all remedies on the table as you consider how to correct past abuses of the Antiquities Act and work with Congress to ensure a more measure approach is taken and required in the future."

Zinke says new sage-grouse policy will defer to states

Secretary of Interior Ryan Zinke June 8 began a substantive new sage-grouse policy that would give states significant leeway in managing the bird.

Although the policy - in the form of a Secretarial Order - has been painted as merely a procedural review, it recommends real change. That is, it would have BLM and the Forest Service revise grouse plans in accordance with Zinke's direction.

As Zinke told the House subcommittee on Interior appropriations June 8, "It opens up a state's ability to formulate a plan shaped to that state rather than just us."

"So we incorporated things like if a state feels comfortable about going on numbers vis-à-vis habitat, captive breeding, or predator control we allow states more flexibility on how they approach it," he said.

But Zinke said the policy will not begin from ground zero. "What the Secretarial Order did not do is stop, or manage (sic), a review of the work that had already been done. There has been a lot of really good work on the sage-grouse so we didn't want to reinvent the wheel. We just wanted to give states a more innovative approach if they wanted according to their data."

The Secretarial Order 3353 itself indicates that Zinke has made up his mind about giving states new and different authority to manage sage-grouse.

It says: "Consistent with governing laws, regulations, and policies, the Department will implement a multifaceted strategy to enhance cooperation with the Eleven Western States primarily responsible for the management and conservation of Sage-Grouse. The strategy will include supporting a partnership that allows the Department and the Eleven Western States to maintain healthy populations of Sage-Grouse and improve collaboration and integration of State and local concerns and approaches into sagebrush management and conservation on Federal lands."

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Zinke told the press the day before he started the review that he had heard complaints from governors that the plans "have been heavy-handed. The complaints have been that the federal government is dictating terms too much."

But on May 26 two western governors - Wyoming Gov. Matt Mead (R-Wyo.) and Colorado Gov. John Hickenlooper (D-Colo.) - wrote Zinke and asked him NOT to change course.

"We understand that you are considering changing the Department's approach to sage-grouse, moving from a habitat management model to one that sets population objectives for the states," they wrote. "We are concerned that this is not the right decision."

They added, "Wholesale changes to the land use plans are likely not necessary at this time."

Oppositely, eight Republican members of the House Public Lands Caucus endorsed the proposal and said they anticipated substantive changes.

Said Rep. Paul Cook (R-Calif.), "I welcome Secretary Zinke's much-needed call to review Sage-Grouse policies. The bird is not endangered and we need to stop putting the supposed needs of this bird ahead of the real needs of people, our local economies, and our national security."

Environmentalists said they would contest the Zinke policy, implying that the Trump administration should not give early deference to states. Said Earthjustice Attorney Ted Zukoski, "To make any revisions, Interior will have to involve the public, biologists, the states and all stakeholders. As Interior moves forward, we'll be there to defend the existing plans that benefit not only the grouse but the many communities, ranchers and sportsmen who rely on healthy sagebrush ecosystems across the West."

A new survey: Backcountry Hunters and Anglers, long a critic of consumptive uses of the public lands, on June 13 argued that coal, oil and gas development is compatible with most sage-grouse habitat.

In a new report the sportsmen say that coal, oil and gas reserves overlap with only four percent of priority habitat management areas.

"Energy development is an appropriate and necessary use of our public lands, particularly in the West, yet it must be pursued responsibly and in the right places," said association conservation director John Gale. "Our report shows that the vast majority of greater sage grouse habitat is ill-suited to energy development of any kind, now or in the future - and that more than three-quarters of areas potentially suited to energy production are located outside areas important to sage grouse."

The report is available at: http://www.backcountryhunters.org/tags/press releases.

As *PLN* reported in the last issue the Trump administration signaled May 23 that it would back off from full implementation of the 98 BLM and Forest Service sage-grouse management plans. The signal came in the form of a proposal to reduce spending on the plans in fiscal year 2018.

That would undoubtedly give states more say in managing the sage-grouse and, inferentially, give commodity users greater access to the public lands, perhaps in line the sportsmen's recommendation.

The Trump signal came in a BLM budget request that would trim $11.8 million

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from BLM's budget for sage-grouse management. The budget says the reduction would lead to "a revised implementation timeline of the Sagebrush Conservation Implementation Strategy and more limited habitat restoration work." The fiscal 2017 BLM appropriation for sage-grouse management was $68.9 million.

The Obama administration sage-grouse policy, issued on Sept. 22, 2015, did not list the greater sage-grouse as an endangered or threatened species as western states had feared. Instead, it directed BLM and the Forest Service to implement 98 records of decisions to protect the bird. The plans apply to 67 million acres across 10 western states.

To revise or replace those plans might take years. But to slow their implementation could be executed with simple budget reductions.

As part of the Obama policy, the Interior Department on Sept. 24, 2015, withdrew 10 million acres of public lands from hard rock mining claims for two years - or until September 24th of this year. The Obama Interior Department proposed on Dec. 29, 2016, a 20-year withdrawal of the 10 million acres beginning with the expiration of the two-year withdrawal.

The National Mining Association June 9 said it welcomed the Zinke review, perhaps with an eye to a cancellation of that withdrawal. Said association president Hal Quinn, "These plans now impose significant restrictions on valuable resource development - including mineral and mining-related activities - on 67 million acres of federal lands in a half-dozen states. Nor did the environmental assessment accompanying these plans provide any justification for a proposal to ban new mineral exploration from 10 million acres with potentially valuable mineral reserves."

Now the hard rock mining industry, the oil and gas industry, some western states and some western local governments are pushing all buttons to do away with the Obama policy and let state plans govern the imperiled bird.

Zinke's Secretarial Order is available at: https://www.doi.gov/sites/doi.gov/files/uploads/so_3353.pdf.

It's not in budget, but chief will support fire cap

Following up on his boss's promise to the House of last month, Forest Service Chief Tom Tidwell told Senate appropriators June 7 that the Trump administration endorses guaranteed money for emergency wildfires.

Although the fiscal year 2018 administration budget request does not propose a "disaster cap" to take spending on huge wildfires out of regular appropriations, Tidwell said the administration is ready to talk turkey. That repeats the promise of his boss Secretary of Agriculture Sonny Perdue to the House last week.

Said Tidwell at a hearing on the agency budget before the Senate Appropriations subcommittee on Interior, "The budget does not include a proposal for a fire funding fix, but I look forward to working with the Department of the Interior, Office of Management and Budget and you to develop a responsible approach that addresses risk management, performance accountability, cost containment, and the role of State and local government partners in ensuring adequate funds are available for wildfire suppression without undue disruption to land management operations."

The administration promise arrives just as a bipartisan coalition of House members introduced legislation (HR 2862) June 8 that would place a disaster cap on wildfire funding.

The measure under lead sponsor Rep. Mike Simpson (R-Idaho) would transfer emergency wildfire expenses greater than the 10-year average out of discretionary appropriations and into disaster spending.

"When more than fifty percent of an agency's budget is unpredictable, you are creating a recipe for the unsustainable fire-borrowing we see today that devastates our forests and costs taxpayers," said Simpson.

In a closely related action Rep. Bruce Westerman (R-Ark.) introduced a draft of a bill that also authorizes a disaster cap for wildfire costs. Westerman's draft would take an extra step beyond the Simpson bill and expand categorical exclusions from environmental reviews of timber sales related to wildfires.

The House approved a predecessor to the Westerman bill twice in the last Congress and the Senate Agriculture Committee approved it once. The House subcommittee on Federal Lands held a hearing on the bill yesterday.

Said House Natural Resources Committee Chairman Rob Bishop (R-Utah), "This draft builds upon the work of the prior Congress to pair forestry reforms with a responsible budget fix and finally address our wildfire crisis. We must give federal agencies the tools to treat federal forests and rangelands at a greater pace and scale and we must end fire borrowing. This framework addresses both."

In the June 7 Senate hearing ranking subcommittee on Interior Appropriations Democrat Tom Udall (D-N.M.) pressed Tidwell on wildfire funding because the budget would only fund the 10-year average of fire-fighting costs and not the projected emergency costs. Udall fired off a series of questions:

"Chief, you know that the 10-year average doesn't actually cover fire fighting costs. Can you explain why you chose not to request the actual forecasted need? Can we expect the administration to support emergency supplemental funding of the amounts sufficient to cover actual fire fighting expenses? What is the administration plan to propose a solution for fire borrowing? Is the disaster cap of the Obama administration a nonstarter for this administration?"

Tidwell responded that the budget, while not formally proposing a disaster cap, does allow for it. "Our budget request does follow the agreement to fund the 10-year average, but it also, I believe, provides the emphasis where we need to find a solution and once and for all be able to find a way to cover that really one percent of fires that contribute 20-to-30 percent of our costs. . .," he said. "We stand committed to finding a solution to this once and for all."

Subcommittee Chairman Lisa Murkowski (R-Alaska) was optimistic that Congress and the administration could strike a deal. "I'm pleased that this Administration recognizes this problem and look forward to working with the Forest Service and the Office of Management and Budget to address this issue during this budget cycle in a fiscally responsible and politically feasible way," she said.

At the hearing Sen. Jon Tester (D-Mont.) asked the chief if fire borrowing would prevent the Forest Service from meeting its timber sale target. Said Tidwell, "I'm optimistic that we can meet that target. We have actually increased the target from 3.2 (billion board feet) to 3.4 based on the additional funding you provided in the FY '17 appropriations bill for us to get some additional planning done."

For wildfire management the Trump fiscal 2018 budget request approximates a fiscal 2017 final appropriations law (PL 115-31 of May 5). It requests $2.849 billion for Forest Service wildfire compared to a fiscal 2017 appropriation of $2.8 billion.

For the Interior Department the administration requested $874 million for wildfire management compared to a fiscal 2017 appropriation of $943 million.

At the Senate hearing several western senators and Tidwell addressed two other pressing national forest issues – a maintenance backlog and a "Cottonwood" court decision requiring additional consultation on projects affecting lynx habitat.

Maintenance: The Trump administration's fiscal year 2018 budget request proposes a decrease of $264 million for infrastructure, dropping from $364 million to $100 million. Murkowski worried that the reduction would prevent the Forest Service from maintaining roads and maintaining other infrastructure needed to support timber sales.

"Without adequate funding for road maintenance and construction the agency will be unable to provide necessary access for timber purchasers while also meeting legally required environmental standards," she said.

Udall asked rhetorically, "How do we sustain the $10 billion generated by visitors to our National Forests - and the 143,000 jobs they create if we don't have roads to access the forests, or safe and accessible facilities, or hiking trails for visitors to use once they are there?"

Tidwell suggested that money for those projects may be in the offing in President Trump's anticipated $1 trillion infrastructure plan that would rely primarily on non-federal partnership money.

He said the $100 million appropriation would be used "to maintain a workforce that will implement critical infrastructure maintenance projects on National Forest System lands and remain ready to implement additional improvements that could be funded through the Administration's infrastructure initiatives."

Cottonwood: A 2015 Cottonwood court ruling directed the Forest Service to consult with the Fish and Wildlife Service (FWS) on plans that affect lynx habitat. The Forest Service had consulted with FWS when the lynx habitat was initially designated in 2007, but in 2009 FWS pulled that habitat designation and designated significantly more national forest as critical habitat.

At that point, said the Ninth U.S. Circuit Court of Appeals, the Forest Service should have reconsulted on plans governing lynx habitat. Although the court didn't enjoin any projects, it did say the Forest Service should revise the plans, and consult with FWS.

At the Senate hearing Sen. Steve Daines (R-Mont.) asked Tidwell to support his bill (S 605) that would waive consultation. "According to the Obama administration this decision has the potential to cripple federal land management agencies," Daines noted.

Tidwell said he would welcome the legislation and said the Forest Service is not averse to consultation. "But," he said, "the way this court decision came down it creates a continuous procedural loop so that we're never done (consulting). Even when we do a lynx amendment consult it's not considered complete. Any time there is new information, and there is constantly new information – it could be something like a master's thesis – that's new information."

Tidwell said the Cottonwood decision applies to the entire Ninth Circuit's jurisdiction, which includes 52 percent of the nation's national forests.

Zinke makes the case for increased energy development

Secretary of Interior Ryan Zinke offered a spirited defense of increased commodity development from the public lands June 8, arguing that revenues from such development could pay for land management agency maintenance backlogs.

"This budget does prioritize America's energy independence with an all-of-the-above strategy," he told the House subcommittee on Interior Appropriations at a hearing on his department's fiscal year 2018 budget request. "We do not value oil and gas over alternative energies but it is all-of-the-above that is a prudent focus."

Zinke said the Obama administration Interior Department lagged in revenue collections. "Let me give you an example when I talk about the budget, when you go back to 2008 we made $18 billion (from) offshore (oil and gas development). Last year we made $2.6 billion. That's a drop of $15.4 billion a year in revenue."

Then he made the link to maintenance. "When I'm faced with an $11.5 billion deficit in maintenance on our parks. . . a drop in $15.4 billion per year we could have caught up with our entire backlog in one year and had $3 billion left over for new infrastructure and capital investment. When you add in timber and offshore (energy development) it gets worse."

So, Zinke concluded, "One of the first acts I've done is to look at revenues across-the-board because I'm concerned that we're not getting value."

Of note offshore oil development came to a screeching halt in April 2010 because of the Deepwater Horizon explosion and fire in the Gulf of Mexico, and is still recovering.

Ranking subcommittee Democrat Betty McCollum (D-Minn.) deplored the Trump administration's emphasis on energy. "Sadly, this budget advances an agenda that puts the pocket of oil and gas companies above the pubic good," she said. "There is a place for responsible oil and gas development on our public lands, but it must be balanced and it must be sustainable."

She added, "This budget abuses the department's conservation responsibilities. The Department has already begun to reverse critical environmental responsibilities such as those that would limit offshore drilling, a moratorium on coal leasing and control of methane."

Overall for the Interior Department the Trump administration budget request would reduce spending in fiscal 2018 by $1.6 billion, from $12.2 billion to $10.6 billion.

However, subcommittee chairman Ken Calvert (R-Calif.) said, "the budget request for your department may not be exactly what you would have proposed but ultimately Congress will have the final say over the fiscal year 2018 budget.

To which McCollum said, "I'm going to make my position very clear. I will not support an Interior Environment bill that appropriates less than our current FY '17 level."

Although the House (and the Senate) have not assigned spending caps to appropriations bill yet, the House Appropriations Committee June 15 approved an initial fiscal 2018 spending bill, this one for Military Construction.

At the House Interior hearing Rep. Mike Simpson (R-Idaho) said he was working on legislation to provide money to address federal land management agency maintenance backlogs. That legislation (HR 2863), introduced June 8, would guarantee $900 million per year for the Land and Water Conservation Fund and divert half of that money - $450 million per year - to maintenance. *(See related article page 20.)*

In a separate area chairman Calvert said the payments-in-lieu of taxes (PILT)

program at more than $400 million per year would drag down his subcommittee's appropriations bills.

"Identifying stable long-term funding for payments-in-lieu of taxes is another major challenge," he said. "Until a solution is identified funding PILT is going to continue to put pressure on program budgets for programs across our agencies within this bill."

The Trump administration, as advertised, submitted a fiscal year 2018 budget request May 23 that would cut appropriations for federal land management agencies across-the-board.

Substantively, the budget proposes major new policies, including leasing for oil and gas in the coastal plain of the Arctic National Wildlife Refuge within five years. That proposal has been before Congress for 35 years without success.

The administration also would terminate the Southern Nevada Public Land Management Act, which has produced $3.4 billion from federal land sales over the last 20 years. The budget would confiscate unspent Nevada money. Finally, the budget recommends the revival of the Federal Land Transaction Facilitation Act, which expired in 2011.

For BLM resource management Trump proposed a $132 million reduction, from $1.095 billion in fiscal 2017 to $963 million in fiscal 2018.

For the National Forest System Trump proposed a $234 million increase, from $1.513 billion in fiscal 2017 to $1.747 billion in fiscal 2018, but the Trump budget would include in forest management $354 million for hazardous fuel treatments. Deducting the hazardous fuels management transfer, the National Forest System would receive $120 million less in fiscal 2018 than in fiscal 2017.

For wildfire management the Trump budget approximates a fiscal 2017 final appropriations law (PL 115-31 of May 5). It requests $2.849 billion for Forest Service wildfire management compared to a fiscal 2017 appropriation of $2.8 billion. For the Interior Department the administration requested $874 million for wildfire management compared to a fiscal 2017 appropriation of $943 million.

Even for the almost sacred PILT program the Trump administration proposed a decrease of $68 million, from $465 million in fiscal 2017 to $397 million in fiscal 2018.

Fiscal 2018 numbers: Here are a few numbers in the final fiscal 2018 budget request, compared to fiscal 2017 appropriations:

BLM RESOURCE MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $963 billion, compared to a fiscal 2017 appropriation of $1.095 billion.

PAYMENTS-IN-LIEU OF TAXES: The fiscal 2018 proposal recommends an appropriation of $397 million, compared to a fiscal 2017 appropriation of $465 million.

WILD HORSES AND BURROS: The fiscal 2018 proposal recommends an appropriation of $70.7 million, compared to a fiscal 2017 appropriation of $80.6 million.

ENERGY AND MINERALS: The fiscal 2018 proposal recommends an appropriation of $177.4 million, compared to a fiscal 2017 appropriation of $172.8 million.

NATIONAL LANDSCAPE CONSERVATION SYSTEM: The fiscal 2018 proposal recommends an appropriation of $27.7 million, compared to a fiscal 2017 appropriation of $36.8 million.

NATIONAL FOREST SYSTEM: The fiscal 2018 proposal recommends an appropriation of $1.747 billion, compared to a fiscal 2017 appropriation of $1.513 billion, but the Trump budget would include in forest management $354 million for hazardous fuels management. Deducting the hazardous fuels management the National Forest System would receive $120 million less, or $1.393 billion.

FOREST PRODUCTS: The fiscal 2018 proposal recommends an appropriation of $359.1 for this line item, which includes timber sales, compared to a fiscal 2017 appropriation of $367.8 million.

FWS REFUGE MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $470.1 million, compared to a fiscal 2017 appropriation of $483.9 million.

LWCF FEDERAL ACQUISITION: The fiscal 2018 proposal recommends an appropriation of $51 million, compared to a fiscal 2017 appropriation of $188.8 million.

Here is the agency-by-agency LWCF distribution: BLM would receive $3.6 million compared to $31.4 million in fiscal 2017; the Fish and Wildlife Service (FWS) would receive $17 million compared to $50 million; the Park Service would receive $23 million compared to $42 million; and the Forest Service would receive $7 million compared to $54.4 million.

BLM and EPA postpone methane rules for two years

BLM and EPA issued separate rules this week designed to postpone key elements of methane emissions rules for two years, to the applause of the energy industry and the condemnation of environmentalists. The BLM postponement is effective immediately and EPA in its action *proposed* a two-year delay.

BLM said June 14 it was invoking a provision of the Administrative Procedures Act that authorizes agencies to postpone the implementation of new rules, if and when petitioners give good cause.

In this instance BLM said the Western Energy Alliance has justified the delay of a Nov. 16, 2016, methane emissions rule by objecting to the "regulatory uncertainty" of provisions dealing with leakage detection, storage tanks and pneumatic device provisions.

Other provisions that BLM is already implementing, such as development of a waste minimization plan, royalty free use of production, definitions of unavoidably lost and avoidably lost, limits on drilling and flaring, and downhole maintenance will continue in place.

Concluded BLM, "While the BLM believes the Waste Prevention Rule was properly promulgated, the petitioners have raised serious questions concerning the validity of certain provisions of the Rule. Given this legal uncertainty, operators should not be required to expend substantial time and resources to comply with regulatory requirements that may prove short-lived as a result of pending litigation or the administrative review that is already under way."

On June 13 EPA proposed a two-year delay of its methane emissions rule of June 3, 2016. EPA previously delayed that rule for 90 days beyond a June 3 compliance deadline and said the interim postponement will give time to finish the longer delay.

The Western Energy Alliance thanked both agencies. "Both rules vastly exceeded federal authority," said Kathleen Sgamma, president of the alliance. "In the case of the BLM rule, the Bureau tried to assume authority that resides with the states and EPA to regulate air quality. In the case of the EPA rule, the agency

attempted to regulate methane without conducting a methane endangerment finding, as required by the Clean Air Act."

BLM stood up for the alliance, saying the bureau "specifically noted that the (leakage detection), storage tank, and pneumatic device provisions will require operators to begin purchasing and installing tens of thousands of replacement parts in the near future."

The Sierra Club objected to the delay. "BLM's methane rule would protect our public lands and communities, and it has already withstood legal challenges and an attempted repeal in Congress," said Lena Moffit, senior director of the Sierra Club's Our Wild America Campaign. "Working behind closed doors to undermine these commonsense protections is a slap in the face to the millions of Americans who support them, and to the many communities who will breathe polluted air as a result."

There is already litigation underway, as Moffit noted. On January 16 Judge Scott W. Skavdahl in U.S. District Court in Wyoming refused for now to halt implementation of the BLM rule. He held that industry plaintiffs, including the Western Energy Alliance, had not yet proved they would be harmed by the regulation.

However, Skavdahl was skeptical about BLM's argument that the rule is designed to prevent waste, i.e. methane venting, and not to assume EPA's clean air responsibility. The oil and gas industry argue in their suit that BLM has no authority over Clean Air Act regulation; only EPA does. Said the judge, "The Court questions whether the 'social cost of methane' is an appropriate factor for BLM to consider in promulgating a resource conservation rule pursuant to its [Mineral Leasing Act] authority."

On April 20 EPA stayed a deadline for compliance with its rule for 90 days beyond a June 3, 2017, deadline. Six national environmental groups asked a federal court June 5 to force EPA to immediately implement the rule.

The environmental groups, including the Sierra Club, argued to the U.S. Court of Appeals for the District of Columbia that the Administrative Procedures Act does not allow EPA to postpone implementation of its rule.

In an initial delay announcement EPA administrator Scott Pruitt said the law allows reconsideration of a regulation if there are objections to the substance of it. In this instance, EPA said, the American Petroleum Institute (API) had delineated substantive objections to several provisions of the rule, justifying reconsideration. The EPA rule is designed to identify and repair gas leaks.

But, said the environmental groups, "In fact, all of the issues Administrator Pruitt identified could have been, and actually were, raised (and extensively deliberated) during the comment period. Further, these objections are not centrally relevant, as they go at most to discrete, severable elements of those requirements and provide no justification for reconsidering and staying the entire leak detection and repair program."

The substantive provisions API objected to in the EPA rule include such things as the identification of fugitive emissions, engineer certification and technical infeasibility.

In a stunning reversal for the Trump administration the Senate May 10 backed the Obama methane rule by a narrow 51-to-49 vote, defeating a resolution to revoke the regulation.

As a result it first appeared that opponents of the BLM rule faced a laborious administrative rewrite/removal of the regulation, or a fight in the federal courts.

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But the proposed June 14 delay may give BLM time to rewrite or revoke the November 2016 BLM rule.

President Trump on March 28 included the BLM methane rule in his list of Obama administration energy regulations that he wants BLM to review for possible revision. He also directed EPA to review its methane rule for possible revision/revocation.

The Trump executive order says BLM and EPA "if appropriate, shall, as soon as practicable, suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules."

BLM retirees support Trump excess wild horse proposal

A coalition of BLM retirees last week backed a Trump administration proposal to remove limits on the sale of unadoptable wild horses.

Wild horse advocates say the proposal - which would have to be approved by Congress in an appropriations bill - would lead to the slaughter of thousands of wild horses and burros.

But the retirees, marching as the Public Lands Foundation, said the bureau needs the authority to reduce the overpopulation of wild horses on the public range, and to reduce the cost of corralling excess horses.

"Restrictions on the sale of excess unadoptable wild horses and burros have resulted in the permanent loss of increasingly larger areas of properly functioning rangelands while at the same time destroying wildlife habitat and creating inhumane conditions for the animals themselves," foundation president Jesse J. Juen wrote House and Senate Appropriations Committee leaders June 5.

He added, "The inability to sell horses and burros without limitation, coupled with a decrease in adoptions and an exponential increase in numbers has resulted in an unsustainable, unmanageable program."

The BLM retirees' opinion matters because they are experienced managers of the public lands, they often reflect the thinking of current bureau professionals and, as retirees, they are free to speak their minds.

The Trump administration proposed the change in managing excess animals in releasing its fiscal year 2018 budget request. The proposal would have appropriators exclude from a fiscal 2018 money bill a traditional provision that forbids the sale of excess wild horses for slaughter. That is the fix the retirees support.

The appropriations language says federal, state or local governments taking custody of excess animals can't "destroy the horses or burros in a way that results in their destruction into commercial products; sell or otherwise transfer the horses or burros in a way that results in their destruction for processing into commercial products; or euthanize the horses or burros except upon the recommendation of a licensed veterinarian, in cases of severe injury, illness, or advanced age."

That language is sacred to wild horse advocates. "The BLM wants to slaughter thousands of iconic wild horses by selling them to kill buyers to save $4 million and cover up its gross mismanagement and incompetence in managing the federal wild horse and burro program," said Suzanne Roy, executive director of the American Wild Horse Preservation Campaign, the nation's leading wild horse protection organization.

"This outrageous and lethal budget is completely counter to the will of the American people, who overwhelmingly oppose horse slaughter and support protecting

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mustangs and burros on our Western public lands," Roy said.

The Trump budget proposal follows the Sept. 9, 2016, recommendation of the National Wild Horse and Burro Advisory Board that BLM sell off as many of the 46,000 corralled excess wild horses as it could. Then it recommended BLM authorize the euthanatization of unadoptable animals.

At the time BLM said in a statement, "We will continue to care for and seek good homes for animals that have been removed from the range. The BLM does not and will not euthanize healthy animals."

The Trump budget says, "The budget proposes to eliminate appropriations language restricting the BLM from using all of the management options authorized in the Wild Free-Roaming Horse and Burro Act."

"The long-term goal is to realign program costs and animal populations to more manageable levels, enabling the BLM to reorient the WH&B program back to these traditional management strategies."

With fewer horses to manage the BLM wild horse and burro program would need less money, said the administration in proposing a $10 million reduction in fiscal 2018 appropriations, from $80.6 million in fiscal 2017 to $70.7 million.

BLM annually sells only about 2,000 to 2,500 wild horses for adoption, so we are talking about euthanizing more than 40,000 animals. The alternative is to continue to corral the more than 45,000 wild horses at a cost of $50 million per year.

In addition there are nearly 70,000 wild horses and burros on the public range, or three times what BLM considers the appropriate management level of 27,000.

The livestock industry, upset about the impacts of an overpopulation of wild horses on the public range, at the time praised the advisory board recommendation. "As a stakeholder group that both cares for animals professionally and works the very rangelands currently being degraded by this growing problem, we are glad to see the Advisory Board take heed of this epidemic and recommend plausible management changes," said Dave Eliason, Public Lands Council president.

The livestock industry charges that excess wild horses and burros not only damage the public range but also induce BLM to reduce livestock grazing.

Some western Congressmen such as Rep. Chris Stewart (R-Utah) have a different solution - put the states in charge. Stewart has introduced a bill (HR 3172) that would require the Interior Department or the Forest Service to cede management of wild horses and burros to states or Indian tribes if a legislature or governor so requested.

The Public Lands Foundation letter is available at: http://publicland.org/wp-content/uploads/2017/06/Letter-to-Approps-on-Wild-Horse-and-Burro.pd.

Report repeats argument that big monuments make money

Earlier studies already made a similar case, but the Headwaters Economics research firm reasserts in a new report the designation of national monuments probably helps local economies.

Concluded the report, "The study found no evidence that designating these national monuments prevented economic growth. Instead, trends in key economic

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indicators such as population, employment, personal income, and per capita income either continued or improved in each of the regions surrounding the national monuments."

That is not exactly new news. Headwaters itself published similar analyses assessing the economic impact of national monuments in 2011 and 2014. All three studies analyzed the same 17 national monuments of more than 10,000 acres in 11 western states designated between 1982 and 2001.

What did matter was the timing of the most recent report, released just before Secretary of Interior Ryan Zinke June 12 submitted a preliminary report to President Trump recommending a reduction in the size of Bears Ears National Monument in southern Utah. *(See related article page one.)*

In his report Zinke also addressed 26 other national monuments his department is studying for possible reduction/revocation. That report is due later this year.

The report from Headwaters, a nonprofit research group based in Montana, concluded, "The Headwaters Economics 2017 review confirms that all the regional economies adjacent to the studied national monuments experienced growth following a monument's designation. National monuments help nearby communities diversify economically while increasing quality of life and recreational opportunities that make communities more attractive for new residents, businesses, and investment."

Utah officials have a different take. Utah Public Lands Policy Coordinating Office Director Kathleen Clarke described the designation of Bears Ears and Grand Staircase as an economic failure to the House Natural Resources Committee May 2.

"Families that have lived for generations in affected communities find their families torn apart due to lack of employment opportunities for the next generation. Populations are declining," she testified. "In the 20 years since the creation of the Grand Staircase (Escalante National Monument), school enrollment in Escalante has gone from 150 to 57 students. Neither seasonal employment associated with tourism and recreation, nor the rotating positions of BLM employees, contribute to the overall stability of these small communities."

The Grand Staircase monument was designated in 1996 and extends over almost 1.9 million acres.

The Headwaters study included Grand Staircase, but it did not include Bears Ears, which was just designated on Dec. 28, 2016. Again, the cut-off date for the study was for monuments designated prior to 2001.

Of Grand Staircase, Headwaters takes issue with Utah's Clarke. It summarized, "The communities in Garfield and Kane counties, Utah neighboring the Grand Staircase-Escalante National Monument experienced strong growth after the designation of the monument, continuing previous growth trends."

Headwaters said between 2001 and 2015 jobs in the Grand Staircase area increased by 24 percent, personal income by 32 percent and per capita income by 17 percent.

Clarke does note that 11.375 billion tons of coal are located in the monument along the Kaiparowits Plateau and are off-limits to development.

Both the Headwaters report (17 monuments) and the Zinke review (22 monuments in the West) include 14 of the same monuments including Canyons of the Ancients, Colorado; Carrizo Plain, California; Cascade-Siskiyou, Oregon; Craters of the Moon, Idaho; Giant Sequoia, California; Grand Canyon-Parashant, Arizona and Utah; Grand Staircase Escalante, Utah; Hanford Reach, Washington; Ironwood Forest, Arizona;

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Organ Mountains-Desert Peaks, New Mexico; Rio Grande del Norte, New Mexico; Sonoran Desert, Arizona; Upper Missouri River Breaks, Montana; and Vermilion Cliffs, Arizona.

The Headwaters report is available at: https://headwaterseconomics.org/public-lands/protected-lands/national-monuments/

IBLA decisions

(We post current Interior Board of Land Appeals decisions at our website, *http://www.plnfpr.com/ibla.htm*. IBLA may be contacted at: Interior Board of Land Appeals, 801 North Quincy St., MS 300 QC, Arlington, VA 22203. Phone (703) 235 3750.)

Subject: Oil and gas lease suspension.
BLM decision: BLM will deny a request for suspension of three leases because the request was submitted after a deadline.
Appellant lessee: BLM should not have denied the suspension because BLM stayed a deadline for the lessee to describe lands to be eliminated from a unit agreement.
IBLA decision: Affirmed BLM, the stay on unit agreement information has nothing to do with suspension deadline.
Case identification: *Willsource Enterprise, LLC. 190 IBLA 225.* Decided May 31, 2017. Ten pages. Appeal from a decision by the Colorado State Office of BLM, upholding the denial of a request to suspend operations and production on Federal oil and gas leases. SDR CO-14-10.
IBLA argument: IBLA Administrative Judge James K. Jackson affirmed a BLM denial of a request for a suspension of three oil and gas leases. The appellant had argued that BLM had granted it a stay on submittal of information on a separate issue - a description of leases eliminated from a unit agreement - and that stay should have kept alive the appellant's request for lease suspensions. But Jackson said the stay didn't apply and the fact remains the appellant applied for lease suspensions long after a deadline. Jackson said that the only thing stayed, "therefore, was the time frame within which (the appellant) had been required to provide the documents." The IBLA decision is closely related to a separate board decision of May 9 (*Willsource Enterprise, LLC. 190 IBLA 138*) holding that the same appellant failed to describe nonparticipating lands in the unit agreement at the five-year point of the unit, thus eliminating the leases from the unit agreement. The same three leases were involved in both decisions.

(IBLA order: The following is an order, not a decision.)

Subject: Grazing settlement agreement.
BLM decision: BLM will settle a lawsuit objecting to grazing levels with an environmental group plaintiff.
Administrative law judge decision: Approved the settlement agreement.
Separate appellant environmental group: The agreement approved by the judge constitutes a new livestock grazing decision the second group disagrees with.
IBLA order: IBLA Administrative Judge James F. Roberts denied a request for a stay and dismissed the appeal of a grazing agreement because a second environmental group appealing the agreement did not have standing to appeal. He said the second environmental group - Wildlands Defense - did not demonstrate that its members have visited the project area. Of interest the attorney filing the appeal for Wildlands Defense, Katie Fite, for several years worked for the environmental group that agreed to the settlement agreement, Western Watersheds Project. Fite litigated the case for Western Watersheds for more than two years before leaving the organization to join Wildlands Defense.
Case identification: *Wildlands Defense, IBLA 2017-13.* May 24, 2017. Nine pages.

Notes

Bernhardt nomination moves up. Although only two non-Republicans voted for him, the Senate Energy Committee June 6 approved the nomination of David Bernhardt to be Deputy Secretary of the Interior. Sens. Joe Manchin (D-W.Va.) and Angus King (I-Maine) were the two non-Republicans to approve the nomination. The committee vote was 14-to-9, promising a fierce, if unsuccessful floor fight against the nomination. Environmentalists have mounted an all-out campaign because of Bernhardt's past record as an attorney for commercial users of the public lands.

The League of Conservation Voters is leading the charge, writing a blanket letter to senators, "With his long history of lobbying for the very industries under DOI's purview - creating numerous conflicts of interest - and his proximity to ethics scandals during his previous tenure at DOI, Bernhardt's ability to put the public interest first is questionable, if not impossible." Bernhardt was employed most recently by the law firm Brownstein Hyatt Farber Schreck LLP, where he represented energy and mining companies and the Westlands Water District in California. President Trump has yet to submit nominees for BLM director, Fish and Wildlife Service director and Park Service director.

Colorado roadless coal mine moving. The Forest Service June 8 proposed for the second time to support the lease of 1,700 acres in a roadless area of the Gunnison National Forest for expansion of a coal mine. The leases, sought by Arch Coal Co., have been contested by environmental groups since Arch first sought the lease acreage in January 2009. In September 2014 Judge R. Brooke Jackson in the U.S. District Court for Colorado ruled that an EIS covering the coalmine expansion was inadequate because it failed to assess the impacts of coal development *and* coal burning on climate change. In the first step of a two-step process the Forest Service on April 17 declared valid an exemption for the mine in a Colorado roadless rule. That opened the way for step two, the processing of Arch Coal Company's application to lease the 1,700 acres in the Gunnison. Ted Zukoski, an attorney with the non-profit law firm Earthjustice, promised to contest Arch's application. "We'll keep fighting Trump's damaging mining plan because we need to protect what Coloradans love best about our state: clean air, scenic mountains, healthy streams, and vibrant wildlife populations," he said. The draft EIS is available at: http://a123.g.akamai.net/7/123/11558/abc123/forestservic.download.akamai.com/11558/www/nepa/68608_FSPLT3_3992911.pdf.

Conference Calendar

JUNE

21-23. **Independent Petroleum Association of America mid-year Meeting**, in Laguna Niguel, Calif. Contact: Independent Petroleum Association of America, 1201 15th Street N.W., Suite 300, Washington, DC 20005. (202) 857-4722. http://www.ipaa.org.

26-28. **Western Governors' Association Annual Meeting** in Whitefish, Mont. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202. (303) 623-9378. http://www.westgov.org.

JULY

12-14. **The International Convention of Allied Sport Fishing Trade Show** in Orlando, Fla. Contact: American Sport fishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. http://www.asafishing.org.

12-15. **National Cattlemen's Beef Association Summer Meeting** in Denver. Contact: National Cattlemen's Beef Association, 9110 East Nichols Avenue Suite 300 Centennial, CO 80112. (303) 694-0305. http://www.beef.org/

20-22. **63nd Annual Rocky Mountain Mineral Law Institute** in Santa Fe, N.M. Contact: Rocky Mountain Mineral Law Foundation, 9191 Sheridan Blvd., #203, Westminster, CO 80031. (303) 321-8100. https://www.rmmlf.org.

21-24. **National Association of Counties Annual Conference** in Franklin County, Ohio. 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.

26-29. **Outdoor Retailer Summer Market** in Salt Lake City, Utah. Contact www.outdoorretailer.com/summer-market.

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Federal Parks & Rec

addendum to Public Lands News
June 16, 2017

* *Zinke defends employee reductions, backs maintenance*
* *Simpson introduces combined LWCF/maintenance bill*
* *Trump infrastructure roll out includes few details*
* *Notes*
* *Monuments (See Public Lands News articles)*

Zinke looks to partnerships to replace fewer employees

If Secretary of Interior Ryan Zinke gets his way - and in the early going various legislators indicate it's not likely, the Park Service and other federal land management agencies will be put on a strict diet.

The Interior Department budget would reduce employee levels by six percent, from 64,000 to 60,000 full-time equivalents. For the Park Service alone the budget would take away 1,242 jobs, reducing the number of full-time equivalent employees from 19,510 to 18,268.

Perhaps to take up the slack Zinke told the House subcommittee on Interior appropriations June 8 that he would expand the use of public-private partnerships.

On partnerships Zinke said, "The budget does encourage some important things. It encourages innovation. It encourages us to look at public-private partnerships when we can, particularly in the national parks, to move people when you have 330 million coming through our park system."

"Some of our parks are at capacity and maybe more," he added. "We need to look at public-private partnerships to move people. I don't particularly want to be in the industry of transportation but I think there are some great people out there to move people more efficiently."

Subcommittee chairman Ken Calvert (R-Calif.) warned Zinke that Congress will ultimately decide spending priorities. "The budget request for your department may not be exactly what you would have proposed but ultimately Congress will have the final say over the fiscal year 2018 budget," he said.

Ranking subcommittee Democrat Betty McCollum (D-Minn.) took on the proposed reduction in employees. "Being a good steward for (the public lands) requires robust investment both in resource management and staffing to carry it out," she said. "The staffing reductions proposed in this budget and the long-term workforce reduction plan you are developing do not provide any assurance that you will be able to properly execute your responsibilities in this department."

Of a long-term budget reduction plan, the fiscal 2018 Interior Department budget request says, "Interior is moving prudently with implementation and has put in place hiring controls to enable limited hiring, prioritizing filling field positions rather than office positions, and limiting hires in the Washington, D.C., and Denver, Colorado, areas. This process enables the Department to continue to fill important positions as work is underway to develop a comprehensive and thoughtful agency plan."

Zinke would spend more fiscal year 2018 money in one area - backlog maintenance for the Park Service.

Rep. Mike Simpson (R-Idaho) said at the hearing he has his own plan for paying off the backlog. He introduced a bill (HR 2863) June 8 that would use Land and Water Conservation Fund (LWCF) money for federal land management agency maintenance at a guaranteed $450 million per year. The bill would also guarantee $450 million per year for LWCF. *(See following article.)*

Zinke said the Trump administration budget would address the maintenance backlog but would not authorize new land acquisition under LWCF.

"When it comes to infrastructure we plan on taking care of what we have, a reduction in LWCF simply (means) no more acquisitions," he said. "But we're going to take care of what we have. I'm concerned as you are about infrastructure."

He singled out the Arlington National Cemetery. "If you want to look at an example of our infrastructure I invite you to go to Arlington, to hallowed ground. It is a national disgrace. The shutters need to be replaced. The foundation is leaning. The gardens are inappropriate and that reflects where we are (overall) in infrastructure."

He also singled out Arlington Memorial Bridge, which requires $250 million in repairs, roughly the entire annual roads budget of the Park Service.

Zinke said that despite a tight fiscal 2018 budget request (i.e. an overall 13 percent reduction for the Interior Department), the Trump administration does propose a $35 million increase for Park Service infrastructure.

In the budget request the administration is asking for across-the-board cuts in operational spending for federal land management agencies. Even the Park Service is not exempt, with a proposed $200 million reduction for operations, down from $2.425 billion in fiscal 2017 to $2.225 in fiscal 2018.

The federal side of the Land and Water Conservation (LWCF) is in for a big cut of $138 million, from $189 million in fiscal 2017 to $51 million in fiscal 2018.

The state side of LWCF would receive $3 million, compared to $110 million in fiscal 2017, but the budget would have Congress allocate an additional $90 million from Gulf of Mexico offshore oil and gas royalties to the program, for a conditional total of $93 million. That of course assumes Congress changes the law.

The pattern of decreases continues for other agencies with the National Forest System in for a $120 million reduction and the Bureau of Land Management in for a $132 million reduction.

Democrats have an overall counterproposal. They are asking their Republican colleagues to reject a Trump administration plan to take $54 billion out of domestic spending and shift it to Defense spending.

Here are some numbers in the fiscal 2018 Trump budget, compared to the final fiscal 2017 numbers:

LWCF FEDERAL ACQUISITION: The fiscal 2018 proposal recommends an appropriation of $51 million compared to a fiscal 2017 appropriation of $188.8 million.

Here is the agency-by-agency LWCF distribution: the Bureau of Land Management (BLM) would receive $3.6 million compared to $31.4 million in fiscal 2017; the Fish and Wildlife Service (FWS) would receive $17.1 million compared to $50 million; the Park Service would receive $23.3 million compared to $42 million; and the Forest Service would receive $7 million compared to $54.4 million.

LWCF STATE: The fiscal 2018 proposal recommends an appropriati

compared to $110 million in fiscal 2017. But the budget also proposes to boost state side revenues with $90 million from Gulf of Mexico oil and gas royalties, for a total of $93 million in fiscal 2018. Congress would have to approve legislation to provide the offshore oil and gas money, no sure thing.

PARK SERVICE OPERATIONS: The fiscal 2018 proposal recommends an appropriation of $2.225 billion, compared to a fiscal 2017 appropriation of $2.425 billion.

CENTENNIAL CHALLENGE GRANTS: The fiscal 2018 proposal recommends an appropriation of $15 million, compared to a fiscal 2017 appropriation of $20 million.

PARK SERVICE RECREATION AND PRESERVATION: The fiscal 2018 proposal recommends an appropriation of $37 million, compared to a fiscal 2017 appropriation of $62.6 million.

NATIONAL HERITAGE AREAS: The fiscal 2018 proposal recommends $1 million in administrative support, compared to a fiscal 2017 appropriation of $19.8 million.

PARK SERVICE CONSTRUCTION: The fiscal 2018 proposal recommends an appropriation of $226.5 million, compared to a fiscal 2017 appropriation of $209.4 million.

PARK SERVICE HISTORIC PRESERVATION: The fiscal 2018 proposal recommends an appropriation of $51.1 million, compared to a fiscal 2017 appropriation of $80.9 million.

SAVE AMERICA'S TREASURES: The fiscal 2018 proposal recommends no appropriation, compared to a $5 million appropriation in fiscal 2017.

STATE WILDLIFE CONSERVATION GRANTS: The fiscal 2018 proposal recommends an appropriation of $52.8 million, compared to a fiscal 2017 appropriation of $82.6 million.

NATIONAL FOREST SYSTEM: The fiscal 2018 proposal recommends an appropriation of $1.747 billion, compared to a fiscal 2017 appropriation of $1.513 billion, but the Trump budget would include in forest management $354 million for hazardous fuels management. Deducting the hazardous fuels management the National Forest System would receive $120 million less.

FOREST SERVICE RECREATION: The fiscal 2018 proposal recommends an appropriation of $252.9 million, compared to a fiscal 2017 appropriation of $264.6 million.

FOREST SERVICE TRAILS: The fiscal 2018 proposal recommends an appropriation of $12.7 million, compared to a fiscal 2017 appropriation of $77.5 million.

FOREST LEGACY: The fiscal 2018 proposal recommends no appropriation, compared to a $62.3 million appropriation in fiscal 2017.

BLM RESOURCE MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $963 billion, compared to a fiscal 2017 appropriation of $1.095 billion.

BLM RECREATION MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $62.7 million, compared to a fiscal 2017 appropriation of $71.7 million.

NATIONAL LANDSCAPE CONSERVATION SYSTEM: The fiscal 2018 proposal recommends an appropriation of $27.7 million, compared to a fiscal 2017 appropriation of $36.8 million.

FWS REFUGE MANAGEMENT: The fiscal 2018 proposal recommends an appropriation of $470 million, compared to a fiscal 2017 appropriation of $483.9 million.

Rep. Simpson would put LWCF, fed maintenance in one pot

Rep. Mike Simpson (R-Idaho) launched a novel campaign June 8 that, in one bill (HR 2863), would guarantee money for both the Land and Water Conservation Fund (LWCF) and federal land management agency maintenance.

Simpson said he has not identified a source of money for the bill - always the hang-up in such campaigns. But he said President Trump's trillion-dollar infrastructure program might do the trick.

Before introducing HR 2863 Simpson said at a June 8 hearing of the House subcommittee on Interior appropriations, "We still have to find the offset for it, but we're hoping that maybe we can work that into the infrastructure package because it is infrastructure, the backlog is." The subcommittee was holding a hearing on the Interior Department's fiscal year 2018 budget request with secretary Ryan Zinke.

Simpson said his bill would guarantee $900 million per year total: "The lands bill is going to reauthorize the Land and Water Conservation Fund for seven years under mandatory funding, with half of it going to (LWCF) split between the state and federal sides and half to be used for backlog maintenance for our parks and other land management agencies, $450 million per year. Hopefully, that would address maintenance backlog in these various agencies."

Secretary of Interior Ryan Zinke at the subcommittee hearing said the Trump administration budget would address the maintenance backlog but would not authorize new land acquisition under LWCF.

"When it comes to infrastructure we plan on taking care of what we have. A reduction in LWCF simply (means) no more acquisitions," he said. "But we're going to take care of what we have. I'm concerned as you are about infrastructure."

He singled out the Arlington National Cemetery. "If you want to look at an example of our infrastructure, I invite you to go to Arlington, to hallowed ground. It is a national disgrace. The shutters need to be replaced. The foundation is leaning. The gardens are inappropriate and that reflects where we are (overall) in infrastructure."

Zinke said that despite a tight budget request (i.e. an overall 13 percent reduction for the Interior Department), the Trump administration does propose a $35 million increase for Park Service infrastructure.

However, the Forest Service budget tells a different story. It proposes a decrease of $264 million for infrastructure, dropping from $364 million in fiscal 2017 to $100 million. (The administration suggests some of that might be made up in a $1 trillion Trump infrastructure program.)

The American Lands Rights Association rang the alarm on LWCF funding among its members the same day HR 2863 was introduced. "The LWCF must not be permanently renewed (Simpson would only extend it for seven years). That is a major step toward a huge billion dollar per year land acquisition trust fund," the association said in a bulletin to its members.

Sen. Jon Tester (D-Mont.) for one supports LWCF and opposes blanket federal land transfers. On June 7 at a hearing of the Senate subcommittee on Interior Appropriations on the Forest Service he complained that in President Trump's fiscal year 2018 budget request, "LWCF is being zeroed out." Then Tester tied the proposed 84 percent reduction in spending for infrastructure in the Forest Service budget request to the disposal of federal lands.

"I'm going to tell you there is a movement in this country to sell our public lands," he told Forest Service Chief Tom Tidwell. "My concern with the budget is we don't have access to trails, our roads aren't being done, our facilities can't be kept up, the trees aren't being managed in a manner that makes sense for the next generation. It just gives more ammunition to the short-sighted people out there who want to sell our public land. They want to do away with our outdoor economy, and they want to make Montana into a different place."

At a hearing of the House subcommittee on Interior Appropriations May 25 Simpson said, "There's a movement to have the states take over all the federal lands. I don't see that happening either. It would not happen and I don't want it to happen because quite frankly we live in Idaho because we love our public lands."

In raw numbers the fiscal 2018 Trump budget request would slash the federal side of LWCF by $138 million, from $189 million in fiscal 2017 to $51 million in fiscal 2018. The state side of LWCF would receive $3 million, compared to $110 million in fiscal 2017, but the budget would have Congress allocate an additional $90 million from Gulf of Mexico offshore oil and gas royalties to the program, for a conditional total of $93 million. That of course assumes Congress changes the law.

The Forest Service Forest Legacy program, which is financed by LWCF revenues, would receive no money, compared to $62.3 million in fiscal 2017.

Here are the LWCF budget request numbers compared to fiscal 2017 appropriations:

LWCF FEDERAL ACQUISITION: The fiscal 2018 proposal recommends an appropriation of $51 million compared to a fiscal 2017 appropriation of $188.8 million.

By agency: the Bureau of Land Management would receive $3.6 million compared to $31.4 million in fiscal 2017; the Fish and Wildlife Service would receive $17.1 million compared to $50 million; the Park Service would receive $23.3 million compared to $42 million; and the Forest Service would receive $7 million compared to $54.4 million.

LWCF STATE: The fiscal 2018 proposal recommends an appropriation of $3 million, compared to $110 million in fiscal 2017. But the budget also proposes to boost state side revenues with $90 million from Gulf of Mexico oil and gas royalties, for a total of $93 million in fiscal 2018. Congress would have to approve legislation to provide the offshore oil and gas money, no sure thing.

Infrastructure roll-out includes no park & rec details

President Trump last week asserted that his administration is getting serious about a $1 trillion infrastructure program.

But in the course of a week-long infrastructure campaign the administration put no meat on the bones. It just said that $200 billion of the $1 trillion would come from federal money in the form of tax reforms over ten years, or $20 billion per year. The rest of the money would presumably come from partnerships with private enterprise coordinated with state and local governments.

However, there are hints as to how park and rec programs may participate. For one, the fiscal year 2018 Forest Service budget request proposes a huge $264 million decrease for infrastructure, decreasing from $364 million to $100 million. That lost $264 million may be picked up by the $1 trillion Trump program.

Separately, Rep. Mike Simpson (R-Idaho) introduced legislation (HR 2863) June 8 that would use $450 million per year of Land and Water Conservation Fund money for

federal land management agency maintenance. Simpson said the source of the money could be Trump's infrastructure program. *(See previous article.)*

Until the Trump administration and its Republican allies figure out how to pay for the infrastructure program, there is likely to be little movement on Capitol Hill. Both the House Transportation Committee and the Senate Environment and Public Works Committees have held preliminary hearings.

As most players know the problem with infrastructure programs is money. For decades various administrations and Congressional leaders from both parties have sought money for surface transportation, with limited success. On Dec. 4, 2015, President Obama did sign into law (PL 114-94) a surface transportation bill that provides outdoor programs with more than $850 million per year for five years.

The House and Senate generated that legislation only after identifying "gimmicky" funding sources beyond the Highway Trust Fund, which is barely contributing half of the needed $300 billion.

So now comes the Trump administration with its far broader and far more ambitious infrastructure program. Once again the Highway Trust Fund is expected to help out, but most observers believe Congress will rely more on tax reform revenues, such as repatriation from domestic companies operating oversees. And partnerships with private industry.

If and when an infrastructure bill is put together, it holds the potential for significant park and recreation assistance.

Forest Service maintenance: At a Senate Appropriations Committee hearing on the Forest Service budget June 7 chairman Lisa Murkowski (R-Alaska) and ranking Democrat Tom Udall (D-N.M.) chided chief Tom Tidwell for the proposed maintenance reduction.

Tidwell responded that money for those projects may be in the offing in President Trump's infrastructure plan.

He said the $100 million appropriation would be used "to maintain a workforce that will implement critical infrastructure maintenance projects on National Forest System lands and remain ready to implement additional improvements that could be funded through the Administration's infrastructure initiatives."

Simpson LWCF bill: Simpson's bill would allocate $450 million per year of Land and Water Conservation Fund (LWCF) money for federal land management agency maintenance. "The lands bill which is going to reauthorize the (LWCF) for seven years under mandatory funding, with half of it going to (LWCF) split between the state and federal sides and half to be used for backlog maintenance for our parks and other land management agencies, $450 million per year," said Simpson. "Hopefully, that would address maintenance backlog in these various agencies."

Before introducing HR 2863 Simpson said at a June 8 hearing of the House subcommittee on Interior appropriations, "We still have to find the offset for it, but we're hoping that maybe we can work that into the infrastructure package because it is infrastructure, the backlog is." The subcommittee was holding a hearing on the Interior Department's fiscal year 2018 budget request with Secretary Ryan Zinke.

Here are a couple of other contenders for infrastructure money.

NPS Legacy Act: Four senators led by Sen. John Portman (R-Ohio) introduced legislation (S 751) March 28 that would establish an ambitious fund that would guarantee as much as $500 million per year for Park Service maintenance.

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The money would be drawn from mineral development revenues and would not be subject to appropriations. However, House and Senate Appropriations Committees would have to sign off on annual priority project lists submitted by NPS.

For fiscal years 2018, 2019 and 2020 the bill would allocate $50 million per year for the NPS maintenance backlog.

For the next three fiscal years it would set aside $150 million per year. For the next three fiscal years after that it would set aside $250 million per year. And from fiscal 2027 through fiscal 2047 it would put up $500 million per year.

Eighty percent of the money would be used for non-transportation projects and 20 percent for transportation. More than half of the total NPS maintenance backlog is made up of transportation projects, but a surface transportation law already allocates more than $270 million per year to Park Service highway maintenance.

Recreation industry proposal: The recreation industry in February asked Congress to include a recreation title in any infrastructure legislation it develops this year, with an emphasis on private investment.

The industry representatives, organized as the Outdoor Recreation Industry Roundtable (ORIR), is calling on Congress to:

(1) embrace private investments such as those that have in the past paid for the construction of Park Service lodges and national forest ski resorts;
(2) allocate infrastructure bank investments to recreation projects for lodging, marinas, campgrounds, etc.;
(3) invest revenues from federal recreation fees in projects; and
(4) approve more public-private initiatives such as the Park Service Centennial Challenge program, which matches private contributions to the national parks with federal appropriations.

ORIR members include the National Ski Areas Association, the National Marine Manufacturers Association, the International Snowmobile Manufacturers Association, the American Sportfishing Association and the Outdoor Industry Association, to name a few.

Notes

Grand Canyon bison plan eyed. The environmental group Public Employees for Environmental Responsibility (PEER), which opposes any "cattalo" in Grand Canyon National Park, is praising the Trump administration for attempting to remove the animals. Cattalo are a mixed breed of bison and cattle that PEER says are not native to Grand Canyon and should be moved out. In May the Park Service proposed a three-year plan to reduce the population from 600 to 200. But PEER says NPS should look beyond three years and eliminate the cattalo altogether. "While the (draft environmental assessment) posits that it is restricted to consideration of 'short-term management options,' the lack of any identified process for even beginning to address long-term management risks the short-term evolving into GCNP's long-term posture," PEER told the park. "We welcome Grand Canyon taking this belated first step but it needs a follow-up," said PEER Executive Director Jeff Ruch. "Our principal concern is that this short-term action could morph into the park's long-term position by failure to pursue complete removal of the cattalo."

NRPA teaming up with Citi on local parks. The National Recreation and Park Association (NRPA) announced last week that is teaming with the Citi bank to revitalize neighborhood parks. Local park and recreation officials in nine agencies will work directly with Citi employees on projects from New York to Arizona. To learn more about NRPA corporate partnership opportunities, visit www.nrpa.org/.

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