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PUBLIC LANDS: Big land-use markup in store for Senate panel (05/05/2008)

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Four dozen public lands, national forests, water and historical bills are slated for markup in the Senate Energy and Natural Resources Committee this Wednesday, along with votes on nominees for two senior-level positions in the Energy and Interior departments.

About a third of the bills have already been cleared by the House, while the rest are Senate proposals that have been considered by different subcommittees over the last several months as part of a concentrated effort by the committee to address its legislative backlog.

Last month, the full Senate cleared a public lands package from the committee that contained 62 different land-use, wilderness and water proposals, and Chairman Jeff Bingaman (D-N.M.) promised more would be on the way before the end of the year.

Most of the bills are likely to be adopted en bloc by voice vote, but committee spokesman Bill Wicker said a handful of the bills could face debate and possible amendments.

The two nominees should head to the full Senate by the committee without much of a problem. Both have been serving in their proposed jobs on an acting basis for months, and committee leaders said last week they would urge the full Senate to expedite their confirmations.

Jeffrey Kupfer is nominated to be DOE's deputy secretary, the No. 2 position at the department. Kupfer is serving on an acting basis, replacing Clay Sell, who left the department at the end of February.

Kameran Onley, if confirmed, would become assistant Interior secretary for water and science. She has been in that position since July, while also serving as assistant deputy secretary since January 2006.

Some of the more noteworthy items up for consideration include [S. 2833](#), from Sen. Mike Crapo (R-Idaho). The bill would designate more than 517,000 acres in the Owyhee-Bruneau Canyonlands of southwestern Idaho as wilderness and nearly 315 miles of river as wild and scenic. It would establish a science review to address management issues of

rangelands in Owyhee County and closes 200 miles of roads and routes near the proposed wilderness areas to motorized vehicle use except in emergencies.

In exchange, about 190,000 acres of Bureau of Land Management lands treated as potential wilderness would be subject to "soft release," opening the door to multiple uses including off-road vehicle use and grazing, following Bureau of Land Management land-use evaluations. The bill also provides for the sale or trade of private inholdings within these proposed wilderness areas.

A previous version of the bill failed in the 109th Congress, following objections from environmental groups and some lawmakers who said the measures were flawed and should be abandoned until after the 2006 elections. Several of those groups now support the new initiative.

Support is also strong for [S. 2593](#), which would establish a collaborative and science-based forest landscape restoration program that would prioritize and fund ecological restoration treatments.

Claiming that overaggressive fire suppression and development have impaired forest landscapes across the country, sponsors say the bill would lead to an overall reduction of wildfire management costs by focusing funding on collaborative, sustainable projects that would offer the greatest protections against devastating wildfires.

Federal land managers would work with state and local authorities to identify parcels of at least 50,000 acres comprised mostly of national forest lands that need active ecosystem restoration. The projects must include several stakeholders representing multiple interests.

Forest Service Chief Gail Kimbell told the committee last month that the bill would work well in concert with the agency's current efforts and the ecosystem services demonstration projects included in the president's fiscal 2009 budget proposal.

The administration also supports [S. 2229](#), a bill from Wyoming Republican Sens. Mike Enzi and John Barrasso that would withdraw 1.2 million acres of the Wyoming Range -- part of the Bridger Teton National Forest that sits south of Jackson Hole and Grand Teton National Park -- from future energy development and would prohibit new oil and gas leasing on the land.

The legislation would provide a buy-out process for current leaseholders and would permit the remaining leases to be voluntarily purchased by conservation groups and other entities to retire the leases.

Forest Service and BLM officials told the Senate Public Lands and Forests Subcommittee that although their agencies support the bill, they have concerns such as the potential effect the bill would have on the nation's energy resources and on the individual rights of current leaseholders in the area.

Wilderness, wildlife and public lands

Several other bills up for consideration Wednesday would also protect thousands of acres of land from future development, and while the administration has been generally supportive of most protection bills, some could see amendments or substitute versions introduced because of specific concerns.

[S. 1380](#) would designate parts of the Rocky Mountain National Park as wilderness and to adjust the boundaries of the Indian Peaks Wilderness and Arapaho National Recreation Area in Colorado's Arapaho National Forest.

An NPS official told the committee last year that the Bush administration could not support the bill as written because of a provision that would lessen a water company's liability for damage to the park caused by use of their right-of-way, which has been in place since 1907.

[S. 390](#) would trade about 40,000 acres of BLM lands in Utah for 42,000 acres of environmentally sensitive state lands, many of which have wilderness characteristics. The state lands are managed under the Utah School and Institutional Trust Lands Administration, a state agency charged with managing lands and mineral estates to fund public schools.

[S. 570](#) would create several new wilderness areas in Virginia's Jefferson National Forest as well as designate 11,000 acres as national scenic areas.

The Seng Mountain and Bear Creek national scenic areas would protect recreational, historic and natural resources in Smyth County, while allowing limited motorized access, something prohibited in wilderness areas. The bill directs the Forest Service to develop trail plans in those areas, joining an extensive network of trails already there, including more than four miles of the Appalachian National Scenic Trail. Like its House companion that passed last fall, the bill would designate 349 acres in the Kimberling Creek area as "potential wilderness."

[S. 868](#) would designate 40 miles of the Taunton River as wild and scenic, from the headwaters all the way to Mount Hope Bay in Fall River, Mass., the site of a proposed LNG terminal.

Weaver's Cove Energy is seeking to build the LNG terminal and has the approval of the Federal Energy Regulatory Commission, although the Coast Guard last year determined the Massachusetts and Rhode Island waterways are unsafe for the transport of LNG to the Fall River terminal.

[H.R. 5151](#) would add about 37,000 acres of wilderness West Virginia's Monongahela National Forest through expansions of the Dolly Sods, Cranberry and Otter Creek

wilderness areas as well as protecting three new wilderness areas across the forest. The bill cleared the House last month.

[S. 2379](#) would authorize the cancellation of certain grazing leases on land in Cascade-Siskiyou National Monument in Oregon, to provide for the exchange of certain monument land in exchange for private land, to designate certain monument land as wilderness.

[H.R. 523](#) would require the secretary of the Interior to convey certain public land located wholly or partially within the boundaries of the Wells Hydroelectric Project of Public Utility District No. 1 of Douglas County, Wash., to the utility district.

[H.R. 2515](#) would authorize funding for the Lower Colorado River multispecies conservation program. The 50-year plan is designed to save 27 species by restoring wildlife habitat. Covering a 400-mile stretch of the river, the program aims to create more than 8,100 acres of riparian, marsh and backwater habitat for six federally protected species and 20 others native to the river system.

[S. 1281](#) would designate certain rivers and streams of the headwaters of the Snake River System as additions to the National Wild and Scenic Rivers System.

[S. 832](#) would provide for the sale of approximately 25 acres of public land to the Turnabout Ranch in Escalante, Utah.

[S. 900](#) would authorize the Boy Scouts of America to exchange certain land in Utah acquired under the Recreation and Public Purposes Act.

[S. 2124](#) would convey land in the Beaverhead-Deerlodge National Forest to Jefferson County, Mont., for use as a cemetery.

New parks, trails and historical areas

A large bulk of the bills are proposals for national parks and other protected lands, along with some historical designations.

[H.R. 189](#) would establish a national historical park in the Great Falls area of Paterson, N.J.

The park would recognize and preserve Alexander Hamilton's breakthroughs in industrial production by incorporating the Pierre L'Enfant-designed, Hamilton-commissioned water power system at the Passaic Great Falls into the park system. It would also lay claim to the nearby Hinchliffe Stadium, the host of historic Negro League baseball games.

The administration opposes the proposals because for a historical area to become part of NPS, there must be a demonstrated need for the federal agency to take over. One official told lawmakers that preliminary results of NPS's feasibility study for the park have

concluded the site does not need NPS management and that the designation relies too heavily on private donations for funding.

[H.R. 1528](#) would create a 220-mile national historic trail in Connecticut and Massachusetts.

The New England National Scenic Trail, which would be the ninth federal scenic trail and the first designated since 1983, would extend from Long Island Sound in Guilford, Conn., to Royalston, Mass., at the Massachusetts-New Hampshire border. The bill passed the House in January with the administration's support.

[H.R. 3998](#) is an omnibus public lands bill authorizing 10 studies of potential national parks or trails including a national trail alongside the Mississippi River from Minnesota to the Gulf of Mexico.

Also in the bill is a study of historic areas in Matewan, W.Va., site of a famed 1920 clash involving mine union organizers, local law enforcement and armed Baldwin-Felts detectives hired by mining companies that left at least 10 dead.

Elsewhere, the bill would direct studies of the Rim of the Valley Corridor in California's Santa Monica Mountains, the Harry S. Truman Birthplace State Historic Site, in Lamar, Mo., and the site of the Battle of Camden in South Carolina. The House cleared the bill last December.

[S. 617](#) would make the National Parks and Federal Recreational Lands Pass available for \$10 to any honorably discharged veteran.

Sen. Gordon Smith (R-Ore.) attempted to include an amended version of his bill during the last major markup the committee had in January, but it was pulled amid concerns it would violate the Federal Lands Recreation Enhancement passed in the 108th Congress.

[S. 2262](#), to authorize the Preserve America Program and Save America's Treasures Program.

President Clinton created Save America's Treasures via executive order in 1998, providing 50/50 matching grants from the Historic Preservation Fund to eligible recipients to restore historic artifacts and structures. Over the last 10 years, the program has handed out more than 1,000 grants amounting to almost \$290 million, including a \$350,000 grant to restore the home of Henry Ford in Dearborn, Mich. First chaired by then-First Lady Hillary Rodham Clinton, it is now chaired by First Lady Laura Bush, who is also the head of the Preserve America program.

President Bush created Preserve America by executive order in 2003. The program is intended to boost federal stewardship of historic properties and advocate for their recognition as national assets.

[S. 662](#) would authorize Interior to evaluate resources at the Harriet Beecher Stowe House in Brunswick, Maine, to determine the suitability and feasibility of establishing the site as a unit of NPS.

[H.R. 3332](#) would provide for the establishment of a memorial within Hawaii's Kalaupapa National Historical Park to honor and perpetuate the memory of those individuals who were forcibly relocated to the Kalaupapa Peninsula from 1866 to 1969.

[S. 783](#) would adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in Louisiana.

[S. 1633](#) would authorize a special resource study to determine the suitability and feasibility of including the battlefield and related sites of the Battle of Shepherdstown in Shepherdstown, W.Va., as part of Harpers Ferry National Historical Park or Antietam National Battlefield.

[S. 2207](#) would authorize a study of the suitability and feasibility of designating Green McAdoo School in Clinton, Tenn., as a unit of the National Park System.

[S. 2513](#) would modify the boundary of the Minute Man National Historical Park in Massachusetts.

[H.R. 2197](#) would modify the boundary of the Hopewell Culture National Historical Park in Ohio.

[H.R. 2627](#) would establish the Thomas Edison National Historical Park in New Jersey as the successor to the Edison National Historic Site.

[S. 2804](#) would adjust the boundary of the Everglades National Park to include the Tarpon Basin property. The property contains habitat for the wood stork and the West Indian manatee, both of which are listed as endangered species. It also includes approximately 10 acres of subtropical hardwood hammock, found only in South Florida and the Florida Keys.

[H.R. 1285](#) would convey National Forest System land in Kittitas County, Wash., to facilitate the construction of a new fire and rescue station.

[H.R. 1311](#) would both convey the Alta-Hualapai Site in Nevada to the city of Las Vegas for the development of a cancer treatment facility.

Heritage areas

The committee will also take up several heritage area proposals that despite popular support among lawmakers, the administration opposes because Congress has yet to pass legislation on how to manage them.

One of the heritage area bills up for consideration is [H.R. 1483](#). The House-passed bill would create six new national heritage areas, including one that would surround the entire city of Tucson, Ariz., and extend the funding authorization for nine others. Proposals in the bill include the Santa Cruz Valley National Heritage Area, the Muscle Shoals National Heritage Area in Alabama, the Journey Through Hallowed Ground National Heritage Area through historic battlefields in Maryland, Virginia, West Virginia and Pennsylvania.

Another heritage area on tap is [S. 827](#). The heritage area would encompass 36 communities in Massachusetts and eight communities in New Hampshire that have significance to U.S. history.

Two bills from Sen. Thad Cochran (R-Miss.) are [S. 2512](#), to establish the Mississippi Delta National Heritage Area, and [S. 2254](#), to establish the Mississippi Hills National Heritage Area.

[S. 2604](#) would establish the Baltimore National Heritage Area.

Water and reclamation projects

Numerous water bills are scheduled for markup, many of which the administration has had concerns about or has rejected outright.

[S. 2814](#) would authorize Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design and construction of a rural water system.

Bureau of Reclamation Commissioner Robert Johnson said last month that the administration did not support the project due to the high federal cost-share. The administration was "concerned about becoming the primary source of funding for this type of project," he said.

[H.R. 1725](#) would authorize the secretary to participate in the Rancho California Water District Southern Riverside County Recycled Non-Potable Distribution Facilities and Demineralization Desalination Recycled Water Treatment and Reclamation Facility Project. The administration claims the federal cost-share in the project is too high to be supported.

The administration also has objections to [H.R. 2381](#), which would promote Interior efforts to provide scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, due to concerns it would duplicate existing federal programs.

[S. 27](#) authorizes \$217 million in direct spending for the implementation of the San Joaquin River Restoration Settlement.

[S. 1171](#) would amend the Colorado River Storage Project Act and Public Law 87-483 to authorize the construction and rehabilitation of water infrastructure in Northwestern New Mexico and other purposes.

[S. 1477](#) would authorize the rehabilitation of Colorado's Jackson Gulch.

[S. 1929](#) would authorize Interior and the Bureau of Reclamation to study water augmentation alternatives in the Sierra Vista Subwatershed in Arizona.

[S. 2370](#) would clear title to certain property in New Mexico associated with the Middle Rio Grande Project.

[H.R. 123](#) would ensure that once \$85 million in federal funds is appropriated for the San Gabriel Basin Water Quality Authority and the Central Basin Municipal Water District the money would be subject to a 35 percent non-federal matching requirement from each entity.

[H.R. 356](#) would remove certain restrictions on the Mammoth Community Water District's ability to use certain property acquired by that District from the United States.

[H.R. 1855](#) would authorize Interior and the BLM to enter into a cooperative agreement with the Madera Irrigation District for purposes of supporting the Madera Water Supply Enhancement Project.

[H.R. 2085](#) would authorize the secretary of the Interior to convey to the McGee Creek Authority certain facilities of the McGee Creek Project.

Schedule: The markup is Wednesday, May 7, at 9:45 a.m. in 366 Dirksen.