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Conferees reach agreement on stimulus similar to Senate bill

A House-Senate conference committee agreed to the outlines of an economic stimulus bill (HR 1) February 11 that that would provide billions of dollars to public lands infrastructure programs.

Although full details were not available at press time, conferees said the bill leans toward a version of HR 1 the Senate approved February 10. The Senate-approved bill in turn removed \$250 million in federal land projects from an earlier Senate Appropriations Committee bill and well over \$1 billion in federal lands projects from a House-approved version of HR 1.

The conferees tilted toward the Senate version of a bill because they need 60 votes to overcome a sure filibuster, and the House version of HR 1 would not have earned 60 votes. The House and Senate are expected to give final approval to the bill by this weekend in time for President Obama to sign it Monday, February 16.

The House and Senate bills differed on some federal land management programs and were quite similar on others. For instance, by one analysis the Senate bill would provide more than \$1 billion less to the Park Service than the House, \$800 million compared to \$1.95 billion in the House bill. Again, the conferees reportedly sided with the lower Senate number.

For other land management agencies the Senate and the House were closer. Both would provide the Forest Service with about \$1 billion, with \$650 million for construction. BLM would receive \$325 million for construction in the House bill and \$315 million in the Senate bill.

PLN has learned that Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) had prepared an amendment to add \$2.5 billion in natural resources projects to the Senate bill this week. However, Bingaman pulled his amendment when three Republican senators and Democratic Sen. Ben Nelson (Neb.) struck a compromise on HR 1 with President-elect Barack Obama that cut \$100 billion from HR 1.

Said an aide to the Senate Energy Committee, "We were trying to add \$2.5 billion for Interior and the Forest Service but then they came up with the deal to cut the \$100 billion." While the outlook for Bingaman's \$2.5 billion is dimmed, anything can happen in a House-Senate conference committee. It may help that most of the money is for straight, job-creating infrastructure work, unlike some provisions of the \$800 billion bill.

Of Bingaman's amendment, cosponsored by 14 other Democrats, an additional \$870 million would go to fire fighting, an additional \$998 million would go to the Park Service and an additional \$350 million would go to BLM.

The compromise among Obama, Nelson and the three Republicans led by Sen. Susan Collins (Me.) made three changes in a final Senate-passed version of HR 1, and presumed House-Senate conference bill.

First, it would reduce total emergency fire fighting money compared to an original committee bill by \$165 million, from \$665 million to \$500 million. The Forest Service share would decrease from \$300 million to \$225 million, the state and local share would decrease by \$90 million from \$350 million to \$260 million, and the Interior Department share would remain the same at \$15 million.

Second, the final Senate bill would reduce Fish and Wildlife Service resource management by \$25 million from \$190 million in an original Senate bill to \$165 million. Finally, the Collins agreement would delete a \$55 million historical preservation line item under the National Park Service.

In total, the Senate bill (and presumed conference bill) would provide \$3.4 billion for restoration of facilities on federal lands and another \$830 million for roads on public land and Indian roads.

Despite the three Republican senators who supported HR 1, all other Republicans in both the Senate and the House have thus far condemned HR 1 as profligate spending. Said Sen. Mike Crapo (R-Idaho), "I very strongly oppose this dangerous legislation because we can't spend our way to prosperity. There are better ways to create jobs than this plan, but unfortunately, it appears big spending is back in Washington, DC."

Both the House and Senate stimulus bills are written like traditional appropriations bills, but descriptions of the federal lands allocations are brief. They run only a half-dozen pages. While the House and Senate bills avoids controversial earmarks, they also run the risk of authorizing many billions of

dollars for projects that Congressional committees have not considered, or have considered only briefly.

For instance the salient description in a paragraph in the House-passed HR 1 appropriating money for BLM says, "For an additional amount for 'Construction', \$325,000,000, for priority roads, bridges, and trail repair or decommissioning, critical deferred maintenance projects, facilities construction and renovation, hazardous fuels reduction, and remediation of abandoned mine or well sites." That's the full description.

Here are the gross numbers for federal land management agencies in the House-passed bill, compared to the Senate bill:

- * BLM construction and management, \$325 million (Senate, \$315 million)
- * FS capital spending, \$650 million (Senate, \$650 million)
- * Wildfire prevention, \$850 million with \$300 million FS and \$550 million state and local (Senate, \$500 million with \$225 million FS, \$15 million DoI and \$260 million state and local)
- * FWS construction and management, \$300 million (Senate, \$285 million)
- * USGS modernization, \$200 million (Senate, \$135 million)
- * Park Service construction and management, \$2.1 billion (Senate, \$750 million.)

Here are the additional allocations recommended by the Bingaman amendment. They would all supplement the Senate amounts listed above:

- * BLM construction and management, \$350 million
- * FS capital spending, \$50 million
- * Wildfire prevention, \$870 million (with \$600 million for the Forest Service and \$250 million for state and local governments)
- * FWS construction and management, \$115 million
- * USGS modernization, no addition
- * Park Service construction and management, \$998 million.

Omnibus lands bill still on hold in the House

The House at press time had not yet taken up a Senate-passed omnibus lands bill (S 22) because legislators were totally focused on an economic stimulus bill.

The omnibus measure had been tentatively scheduled for the House floor February 11 but the press of economic stimulus legislation postponed things. The Congressional schedule at press time was fluid because the House and Senate were concentrating on conferencing the stimulus bill and securing final passage of it. And Congress is scheduled to take next week off for President's Day.

So the omnibus lands bill, if it is not passed this weekend, could be deferred until late February. And the more time goes by the more aggressive critics become.

Complicating the situation, the House intends to take up S 22 under a shaky procedure called "Suspension of the Rules," which requires a two-thirds majority to pass. With conservative western Republicans opposed, despite goodies for their districts, the House would have to come up with 291 votes to pass the bill.

The Senate gave its approval January 15 to the 161-bill omnibus lands bill by a vote of 72-to-21. Senate action was made possible by a crucial 66-to-12 vote to defeat a filibuster.

There was plenty of criticism of S 22 in the Senate, including a provision that would certify a 27 million-acre National Landscape Conservation System (NLCS)

managed by the Bureau of Land Management (BLM.) Said bill opponent Sen. Tom Coburn (R-Okla.), "Don't forget there is another big issue with this bill in that we step all over property rights in this country. Even though several of the bills in here say they would not use eminent domain, every one of them still has the right to use eminent domain outside the areas we have created in this bill."

In approving S 22 the Senate clarified that all conservation areas within the California Desert Conservation Area (CDCA) would be considered part of the NLCS. Sen. Dianne Feinstein (D-Calif.) had said last year she would offer an amendment to ensure the entire 10 million-acre CDCA was in the system.

A Senate Energy Committee staff member said, "We put language in the bill that says BLM had listed the California Desert Conservation Area as part of the National Landscape Conservation system. We said the California Desert that is administered for conservation purposes is part of the NLCS."

The bill says that the NLCS includes "Any area designated by Congress to be administered for conservation purposes, including. . . public land within the California Desert Conservation Area administered by the Bureau of Land Management for conservation purposes."

According to BLM the NLCS contains 27 million acres, including 4.8 million acres of national monuments, 14 million areas of conservation areas, 1.4 million acres of "similar designations," 7.7 million acres of wilderness areas, 13.8 million acres of wilderness study areas, and one million acres of wild and scenic rivers.

Bill sponsors and BLM say the certification of the system by Congress will not affect land uses because all lands will continue to be managed under their original designations by Congress.

But bill critics are not so sure. The American Land Rights Association (ALRA) warned its members February 9 that the NLCS "will lock you out of BLM multiple-use, energy lands, national monuments and Wild and Scenic Rivers. Grazing, mining, forestry and many other uses will be greatly affected."

ALRA also criticized the Congressional technique of lumping many individual bills into one omnibus bill. "The strategy is that by giving every Congressman something in the bill they want, they won't oppose the bill when it comes up for passage," said ALRA. "They won't look at all the other bad stuff. And the leaders are usually right."

The omnibus bill is opposed by a wide range of interests, beginning with western House Republicans and including the U.S. Chamber of Commerce, private property rights advocates, powered recreation advocates, and conservative think tanks.

The Senate Energy Committee developed the omnibus lands package based on committee-passed bills. Not all committee-passed bills made the cut because both Democratic and Republican committee leaders enjoyed a veto. The idea was to produce a bill that provides something for everyone on both sides of the aisle. Bingaman said Republicans and Democrats sponsored almost equal numbers of bills in the package.

In addition to the NLCS measure, S 22 contains these initiatives:

* WYOMING RANGE: The omnibus includes a bill (S 2229) from Sen. John Barrasso (R-Wyo.) that would authorize non-federal interests to buy out oil and gas leases on 1.2 million acres of the Wyoming Range of the Bridger-Teton National Forest. BLM and the U.S. Geological Survey (USGS) have offered different estimates of the amount

of oil and gas the range contains. BLM said on Feb. 27, 2008, that the area may contain 331 million barrels of oil. But on June 19 the USGS estimated only 5 million barrels of oil. Similarly, BLM estimated the area may contain 8.8 trillion cubic feet of natural gas and USGS estimated 1.5 trillion cubic feet.

* OWYHEE LANDS (IDAHO): The omnibus includes this bill (S 2833) from Sen. Mike Crapo (R-Idaho) that would designate 517,000 acres of BLM-managed wilderness. An alliance of retired BLM employees, the Public Lands Foundation, objects to the bill and says that before designating wilderness sponsors should work with BLM to identify precise boundaries.

* WILDERNESS (NINE OTHER BILLS): The omnibus includes several individual wilderness bills that would protect up to 2 million acres, including: Wild Monongahela Wilderness (West Va.), Virginia Ridge and Valley Wilderness (Va.), Mt. Hood Wilderness (Ore.), Copper Salmon Wilderness (Ore.), Cascade-Siskiyou National Monument (Ore.), Owyhee (Idaho), Sabinoso Wilderness (N.M.), Pictured Rocks National Lakeshore Wilderness (Mich.), Oregon Badlands Wilderness (Ore.), Spring Basin Wilderness (Ore.), Eastern Sierra and Northern San Gabriel Wilderness (Calif.), Riverside County Wilderness (Calif.), Sequoia and Kings Canyon National Parks Wilderness (Calif.), and Rocky Mountain National Park Wilderness (Colo.)

* OTHER MEASURES: In addition, the omnibus includes individual bills that would designate three new National Park System units, authorize additions to nine existing National Park System units; authorize by our count a dozen land exchanges and conveyances; designate four national trails; authorize studies of additions to four National Historic Trails (all in the West: Oregon National Historic Trail, Pony Express National Historic Trail, California National Historic Trail, and The Mormon Pioneer National Historic Trail); add three wild and scenic rivers including the Snake River Headwaters in Wyoming; and designate a Snowy River Cave National Conservation Area of about 3.5 miles of cave passages in Lincoln County, N.M.

Democrats, sportsmen look to Salazar for O&G curbs

Critics of the Bush administration's onshore public lands oil and gas development program have begun to demand major, major cutbacks in leasing in sensitive areas.

Buoyed by the Obama administration's withdrawal last week of 77 parcels BLM sold at a controversial oil and gas lease sale in Utah, 75 House Democrats February 5 asked Secretary of Interior Ken Salazar to bar leasing on any public land included in wilderness bills in the last Congress. In Utah alone that would put 4.9 million acres of public lands off limits to leasing that are not already protected as wilderness study areas.

Separately, sport fishermen on February 5 asked Salazar to hold off on a scheduled February 12 sale of 57,000 acres of cutthroat trout habitat in Colorado. The anglers asked the Obama administration to use the Colorado sale as an excuse to review BLM's leasing policy nationwide as it affects trout habitat. The fishermen's request is independent of the Congressional concerns about leasing in recommended wilderness areas. (The Forest Service February 11 did direct BLM to withdraw 67,000 acres from the sale.)

Salazar indicated February 4 that there was a new sheriff in town overseeing the federal onshore oil and gas leasing program when he put a hold on the issuance of leases for 77 tracts in Utah. *(See following article on the Utah sale.)*

The oil and gas industry warns against a precipitous reduction in oil and gas leasing on the public lands. It is particularly concerned about the House Democrats' request to put POTENTIAL wilderness lands off limits. Dan Naatz, vice president of federal resources for the Independent Petroleum Association of America, said, "Our number one concern is the drumbeat to reduce access to public lands, in this instance to areas federal land managers have determined do not have wilderness characteristics and should be available for multiple use."

Naatz worries that Salazar has sweeping authority under the Mineral Leasing Act to block leasing in these sensitive areas, even though the Interior Board of Land Appeals has repeatedly ruled that BLM may lease in areas recommended for wilderness by Congress but not by BLM. "He has very broad discretion," said Naatz.

Clearly the anti-leasing forces have the upper hand for the first time in eight years, and they are going to use it. The 75 Democrats, led by Reps. Maurice Hinchey (D-N.Y.) and Carol Maloney (D-N.Y.), wrote Salazar, "In order to prevent the conveyance of more sensitive lands to the oil and gas industry, we strongly urge you to direct the BLM and the Forest Service to defer future lease sales of all public land under their jurisdiction that have been the subject of legislation in the 110th Congress that would designate them as wilderness or another protective status."

The Democrats added, "It will also provide your agencies the opportunity to take further action to protect sensitive areas from development by using existing administrative authorities to temporarily or permanently withdraw such areas from future leasing."

The Democrats don't have an estimate of nationwide acreage affected by their recommendation, said an aide to Hinchey, but their immediate aim is to prevent leasing in any land included in a 9.5 million-acre Utah Red Rock Wilderness bill and a 23 million-acre Northern Rockies wilderness bill. "Our main goals are the Red Rock bill and the Northern Rockies," said the Hinchey spokesman.

Of the 9.5 million acres in the Red Rock bill 4.5 million are already protected as BLM-designated wilderness study areas. However, another 4.9 million acres are not protected against leasing.

The Northern Rockies bill, with Maloney as lead sponsor, would designate 9.5 million acres of wilderness in Idaho, seven million acres in Montana, five million acres in Wyoming and 1.25 million acres in Oregon and Washington combined. Maloney and 40 cosponsors reintroduced the Northern Rockies bill February 11 as HR 980. Hinchey intends to reintroduce the Utah bill soon, an aide said.

Lands recommended for wilderness by BLM are already off limits; the Democrats are targeting lands that BLM has not recommended for wilderness but the Congressmen believe should be.

FISHERMEN'S PROPOSAL: Western fishermen have a more specific goal than the Democratic Congressmen - protection of fish habitat. As members of the Theodore Roosevelt Conservation Partnership (TRCP), the anglers filed a formal protest of the February 12 Colorado BLM sale on January 28. They objected to the leasing of 57,000 acres of fish habitat.

Then on February 4 TRCP and several fishing companies and associations wrote Salazar and asked him to use the Colorado sale as a starting point in a greater review of the impact of oil and gas leasing on fish habitat. "The government's overall approach to oil and gas leasing on federal public lands poses a threat to our nation's game species and sporting traditions that we have a vested interest in resolving," the fishermen wrote Salazar.

"Sportsmen trust that you will take advantage of the upcoming BLM lease sale in Colorado to review the current mineral leasing paradigm and implement necessary changes in policy, protocol and management," the groups added.

Elucidated Ross Tuckwiller, TRCP field representative for southern Colorado, "We're asking him to review the leasing process in plans that don't take into consideration crucial habitat for sportsmen. The last few years they haven't been looking to protect that habitat."

WYOMING SALE: Meanwhile, in Wyoming, the traditional hotbed of western oil and gas development, BLM February 3 sold 82 percent of the parcels it offered for sale (112 out of 137.) However, BLM only took in \$2,392,280.50, well below the norm for the state. In an Oct. 7, 2008, lease sale, for instance, BLM netted \$9.2 million.

NEW MEXICO SALE: In the first lease sale on January 21 after the Obama administration took over January 20 the New Mexico BLM netted \$11,169,127 on the sale of 88 tracts.

Salazar takes aim at Bush O&G program; cancels Utah leases

Secretary of Interior Ken Salazar February 4 ordered his department to put on hold the sale of controversial oil and gas leases in Utah near national parks and recreation areas.

"Because of the need to review some of these parcels because of their proximity to landscapes of national significance I have directed the Bureau of Land Management not to accept the bids on the 77 parcels (that BLM sold Dec. 19, 2008,)" said Salazar. The leases will not be issued until BLM studies in-depth the environmental consequences of oil and gas development, he said, if then.

Salazar indicated the winning bidders may not be able to obtain the tracts at all because BLM may reoffer them. "It may be that out of these 130,000 acres there may be a large part of that actually ends up subjected to a new lease sale," he said. The winning bidders from December could of course resubmit bids.

On December 19 the BLM State Office in Utah touched off a national controversy when it leased 150,000 acres for oil and gas development, with many of the tracts located near Arches National Park, Dinosaur National Monument, Canyonlands National Park, Nine Mile Canyon and Desolate Canyon. BLM manages the latter two areas.

A federal judge January 16 blocked the issuance of 100,000 acres of the leases and suggested that environmentalist litigants would probably succeed in a lawsuit against BLM. Those are the leases Salazar has also withdrawn.

Salazar said the department has authority to withhold the issuance of leases under the Mineral Leasing Act, even though companies offered winning bids.

Salazar had earlier said January 28 at an introductory press conference that the Obama administration is reviewing what he called "midnight actions" by the Bush administration for possible revision. The Utah leases fall under that heading, he said.

"There are a number of decisions that were made by the Bush administration in the last months," he said. "It may be that many of those decisions were brought without proper environmental review or without making sure sound science was applied. We are looking at many of these matters."

Rep. Rob Bishop (R-Utah), chairman of the Western Caucus, was furious. "Frankly, I'm astounded at the timing of this decision," he said. "At the very time our nation is debating legislation to create jobs and shore up our economy, the Department of Interior is taking steps to kill jobs and economic development in my home state."

Kathleen Sgamma, director of government affairs for the Independent Petroleum Producers of the Mountain States, echoed Bishop's argument. "We wonder why the Administration is implementing policies that will limit economic development in the West, decrease energy security and make addressing climate change even more

difficult," she said. "Natural gas producers in Utah and the Intermountain West produce 27 percent of America's natural gas on less than 1 percent of public lands."

But Dave Alberswerth, who specializes in public lands policy for The Wilderness Society, was encouraged by Salazar's example. "This indicates they are concerned about the controversy surrounding this sale and the Bush administration's oil and gas lease policy in the West," he said. "The court indicated BLM is vulnerable. Over and above that we are hopeful this is an indication the Obama administration wants to be more careful."

Salazar says review of Bush actions includes oil shale

Secretary of Interior Ken Salazar said February 4 that the Obama administration is reviewing "a number" of actions taken in the last days of the Bush administration to accelerate oil shale development.

Salazar has said before that the Bush administration's oil shale development policy was on the table for review, but he expanded that last week to indicate his team was looking at several regulations and related initiatives.

"We have a number of reviews under way with respect to the oil shale program and we have not reached any decisions," the secretary said in a press conference dealing with withdrawn oil land gas leases in Utah.

The Salazar Interior Department is still getting organized. "There is just a skeleton crew over there," said one interest group member close to the administration. As of press time the Obama administration had not announced nominees for assistant secretary for Land and Minerals, for Solicitor or for any agency heads.

The administration had made a little progress in the Department of Agriculture where several sources say it will nominate Chris Wood as under secretary for Natural Resources. Wood is a vice president at Trout Unlimited and a former Forest Service employee. As under secretary he would oversee the Forest Service.

Oil shale regulations are expected to be just one target of Salazar's review of Bush administration actions. Bush administration alterations of Endangered Species Act policies and rules will also be under the microscope.

Said Salazar, "There are a number of decisions that were made by the Bush administration in the last months. It may be that many of those decisions were brought without proper environmental review or without making sure sound science were applied. We are looking at many of these matters."

Several Bush administration Endangered Species Act initiatives may be ripe for review. On Dec. 11, 2008, the Interior Department issued final new Section 7 regulations that give agencies greater leeway on whether to consult with the Fish and Wildlife Service on the impact of projects on imperiled species. In a separate action Dec. 15, 2008, BLM issued new guidance for management of threatened, endangered or rare species.

As for the Bush administration's oil shale policy, at issue is the pace and size of the development of vast reserves of oil shale in Colorado, Utah and Wyoming. The Green River Formation of Colorado alone could produce an estimated 800 billion barrels of oil, or 100 years worth of the nation's annual consumption of 8 billion barrels. Four actions are ripe for review.

* On Sept. 6, 2008, BLM published 12 management plans and a final oil shale programmatic EIS that amends existing resource management plans in the Rockies

(three in Colorado, six in Utah and three in Wyoming.) The plans anticipate significant oil shale development in the three states.

* On Nov. 18, 2008, BLM issued final commercial development oil shale regulations in time for the rules to go into effect January 17 before the Obama administration took over January 20.

* On January 15 BLM asked for a second round of nominations for research and development (R&D) leases. The new round of leases would be for 640 acres rather than the 160 acres for six existing R&D leases. Nominations are due by March 2.

* On January 16 BLM issued addendums to the six old R&D leases to establish procedures for commercial development under the Nov. 18, 2008, regulations. The existing R&D leases run for 10 years with a possible five-year extension. And the law allows the R&D leases to be converted to 20-year commercial leases of 4,960 acres.

The Department of Agriculture is also feeling the pressure to end numerous Bush administration national forest policies. Ninety-nine environmental groups late last year submitted a list of policy recommendations to the Obama administration that called for a flat ban on cutting old growth trees, reinstatement of a Clinton administration roadless area policy, reinstatement of a Clinton administration Northwest Forest Plan, and elimination of most Bush administration categorical exclusions from environmental documentation.

Speaking of the Northwest Forest Plan, on February 11 the Fish and Wildlife Service announced it would hold a new public comment period on a Bush administration proposal to reduce critical habitat for the marbled murrelet. The Bush administration last June proposed removing 254,070 acres of critical murrelet habitat in Oregon and Northern California, reducing it from 3,887,800 acres to 3,633,800 acres. Now the Obama administration will review that proposal by taking comments until March 13.

The environmentalists would also have the Obama administration reinstate Clinton administration regulations that would limit a miner to one five-acre mill site claim for each 20-acre placer or lode claim. The Bush administration on Oct. 24, 2003, cancelled that policy and allowed a miner to obtain an unlimited number of five-acre mill site claims to support placer and lode claims.

Obama, Hill plan for fiscal 2009 and 2010 money bills

Although House and Senate appropriators have largely reached agreement on the details of fiscal year 2009 appropriations bills, it is likely that last year's spending levels will simply be extended for the rest of the year.

That's because the fiscal 2010 budget is right around the corner. It is understood that the Obama administration will sketch out a budget framework by the end of February and provide details sometime in April. That will probably preclude greater attention to the fiscal 2009 money bill.

However, Congressional appropriators still hold out hope that Congress will take up fiscal 2009 bills this month in an omnibus bill and won't have to extend fiscal 2008 spending levels.

Normally, an administration introduces its budget for the next fiscal year on the first Monday in February. But due to the transition to a new administration and the all-consuming work on an economic stimulus bill, the fiscal 2010 budget was delayed.

This last Congress (the 110th) put off consideration of fiscal 2009 money bills in late September by approving an extension of fiscal 2008 bills until March 6 (PL 110-329 of September 30.)

It is understood there would be little difference between a straight extension of fiscal 2008 spending and the agreements reached by House and Senate appropriators on fiscal 2009 spending.

That the fiscal 2010 budget is delayed also means that appropriations committee hearings will be delayed, other than for oversight. Again, with the details of the Obama budget not expected until April, the committee hearings (and perhaps mark-ups) will also be delayed significantly.

One thing our sources agree on: Fiscal year 2010 will be a lean year. Of course every administration since George Washington has boasted about its lean annual budget, but we are told this really will be a tight one, particularly given an \$800 billion stimulus bill.

Committees sort out membership, chairs; GOP changes most

House and Senate committees with public lands oversight this week finally completed member assignments and subcommittee chairmanships.

On the Democratic majority side there were virtually no changes. Rep. Raúl Grijalva (D-N.M.) will continue to chair the subcommittee on National Parks, Forests and Public Lands. And Sen. Ron Wyden (D-Ore.) will chair the Senate subcommittee on Public Lands and Forests.

In appropriations committees Rep. Norman Dicks (R-Wash.) will again chair the House subcommittee on Interior and Related Agencies and Sen. Dianne Feinstein (D-Calif.) will again chair the counterpart Senate subcommittee.

As we have reported the most significant changes will come on the Republican minority side. In the House Natural Resources Committee Rep. Richard "Doc" Hastings (R-Wash.) replaces Rep. Don Young (R-Alaska) as ranking minority member. In the Senate Energy Committee Sen. Lisa Murkowski (R-Alaska.) replaces the retired Sen. Pete Domenici (R-N.M.) as ranking minority member.

Here's the full line-up:

HOUSE NATURAL RESOURCES COMMITTEE: On February 4 the committee, chaired by Rep. Nick Joe Rahall (D-W.Va.), chose subcommittee chairmen. Grijalva will continue to chair the subcommittee on National Parks, Forests and Public Lands. Rep. Rob Bishop (R-Utah) will retain his position as ranking Republican. In the House subcommittee on Energy and Mineral Resources chairman Jim Costa (D-Calif.) returns. Rep. Doug Lamborn (R-Colo.) will serve as ranking minority member.

HOUSE APPROPRIATIONS COMMITTEE: Rep. David Obey (D-Wis.) continues as chairman and Rep. Jerry Lewis (R-Calif.) as ranking minority member. Dicks returns as the leading public lands voice on the committee. Rep. Mike Simpson (R-Idaho), a forceful voice for the conservative West, will serve as ranking minority members on the Interior appropriations subcommittee. He replaces Rep. Todd Tiahrt (R-Neb.)

HOUSE ENERGY AND COMMERCE: (Included here because committee will have jurisdiction over giant climate control legislation that could have major impacts on public lands policy.) Rep. Henry Waxman (D-Calif.) will be in charge of writing climate control legislation. Rep. Joe Barton (R-Texas) returns as ranking minority member.

SENATE ENERGY COMMITTEE: On February 11 the committee under chairman Sen. Jeff Bingaman (D-N.M.) chose subcommittee chairmen and ranking minority members. Wyden will continue as chairman of the Senate subcommittee on Public Lands and Forests where his portfolio also includes hard rock mining. Sen. Maria Cantwell (D-Wash.) will chair the Senate subcommittee on Energy where her portfolio covers public lands oil and gas development and Alaska pipeline matters.

Murkowski will serve as the ranking Republican on the committee. Sen. John Barrasso (R-Wyo.) will serve as ranking minority member on the Wyden subcommittee. Sen. James Risch (R-Idaho) will serve as ranking minority member on the subcommittee on Energy. Of note the committee picks up Sens. John McCain (R-Ariz.), Bob Bennett (R-Utah), Risch and Sam Brownback (R-Kansas) to replace departing Sens. Domenici, Larry Craig (R-Idaho) and Gordon Smith (R-Ore.)

SENATE APPROPRIATIONS COMMITTEE: Feinstein will chair the Senate subcommittee on Interior Appropriations once again. Sen. Thad Cochran (R-Miss.) will continue as ranking minority member.

SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE: Sen. Barbara Boxer (D-Calif.) will chair this panel that will be in charge of endangered species policy. Sen. James Inhofe (R-Okla.) returns as ranking minority member.

IBLA decisions

(We now post current Interior Board of Land Appeals decisions at our website, <http://www.plnfr.com/ibla.htm>. We provide the most recent three months of decisions in PDF format. We update the listing every two weeks. 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: Mining claim maintenance fee.

DoI decision: BLM will deny a request for a refund of maintenance fees paid over 15 years.

Appellant: BLM regulations require a refund because the claims were void since there was never a mineral discovery.

IBLA decision: Affirmed BLM decision, the lack of a discovery does not authorize a refund.

Case identification: Reoforce, Inc., February 3, 2009. Seventeen pages. Appeal from a decision of the California State Office of BLM which denied a request for refund of mining claim rental and maintenance fees. CAMC 264465, et al.

IBLA argument: IBLA Administrative Judge James F. Roberts affirmed a BLM decision that rejected a request for a refund of maintenance fees paid on 92 mining claims over a 15-year period. The appellant argued that because the claims did not contain an exposure proving a discovery of minerals, the claims were void over the entire period. Under BLM regulations a claimant may obtain a refund on void claims. Roberts and BLM rejected the appellant's argument because a claimant's after-the-fact assertion that claims did not contain a discovery does not qualify as a determination that claims were void over the entire 15 years. "Nothing in the rulemaking history implies or indicates that BLM intended to effectively transfer to the claimant the power to unilaterally determine, long after the fact, that a claim was void when the payments were made," said Roberts. Further, he said, to allow a claimant to decide when claims lacked a discovery could turn the law on its head. "To vest a claimant with the ability to determine that a claim, for which the maintenance fee was paid in lieu of assessment work or active mining, was void from the outset would, as BLM observes, effectively turn the maintenance fee into the equivalent of a refundable security deposit in many cases," held Roberts.

Notes

Grazing fee unchanged; Kerr stirs. BLM and the Forest Service announced last month the federal grazing fee will remain \$1.35 per animal unit month in 2009, the same as 2008. With President Bush in the White House the last eight years talk of a new higher grazing fee quieted. But with the election of President Obama that talk may revive. If fees aren't increased, environmentalist critics of grazing on the public lands may revive a secondary campaign that would have the federal government buy grazing permits from willing sellers. Indeed, one of the architects of buy-out legislation in recent years, Andy Kerr, has moved to Washington, D.C., from Oregon. He says one of his major ambitions is "legislative provisions to facilitate federal public lands grazing permit retirement." Kerr was a major player in the writing of a Northwest Forest Plan under President Clinton.

Mexican wolf count disputed. The Fish and Wildlife Service (FWS) said February 6 that the total count of Mexican wolves in Arizona and Mexico was the same at the end of 2008 as at the end of 2007, 52. But that didn't mollify the Center for Biological Diversity. It charged that only two breeding pairs remain, a

statistic that FWS agrees with. And the center also criticized FWS for removing 19 wolves in 2007 for such reasons as livestock depredation and nuisance behavior. FWS did acknowledge that illegal shooting of wolves continues, with seven slain in 2008. "These mortalities are an intolerable impediment to wolf recovery. We will continue to aggressively investigate each illegal wolf killing to help ensure that anyone responsible is prosecuted to the fullest extent of the law." said Benjamin N. Tuggle, PhD, regional director for FWS's Southwest Region.

Forest products rule pulled back. Secretary of Agriculture Tom Vilsack himself announced last week that the Obama administration had delayed implementation of a Dec. 29, 2008, Bush administration rule governing the sale and disposal of "special" forest products. Special forest products include firewood, posts, poles, berries, seeds, nuts, Christmas trees and dozens of other products. The rule established new procedures for the sale and disposal of the products, often to insure that Native Americans were consulted. Vilsack's action delays the implementation date for the rule from January 29 to March 30. In the interim the action also opens the rule to additional comment until March 30. Comment to: *USDA Forest Service, FM, Director, 201 14th Street, SW., Mailstop 1103, Washington, D.C. 20024, or by e-mail to wospecialproducts@fs.fed.us.*

TRCP picks Sparrowe as head. The Theodore Roosevelt Conservation Partnership (TRCP) has chosen Dr. Rollin Sparrowe, former president of the Wildlife Management Institute, to serve as chairman on an interim basis. He replaces James D. Range, who died January 20 of kidney cancer at the age of 63. Sparrowe was a founding board member of TRCP along with Range. Sparrowe also headed up the Fish and Wildlife Service Office of Migratory Bird Management for many years. TRCP united hunters, fishermen and other sportsmen to fight for the protection of habitat across the country. Although Range and his allies criticized Bush administration plans, Range maintained a friendship with President Bush.

Conference calendar

FEBRUARY

22-25. **National Western Mining Conference and Exhibition** annual meeting in Denver. Contact: Colorado Mining Association, 216 16th St., Suite 1250, Denver, CO 80202. (303) 575-9199. www.coloradomining.org.

22-25. **Society for Mining, Metallurgy and Exploration** annual meeting in Denver. Contact: Society for Mining, Metallurgy and Exploration, P.O. Box 277002, Littleton, CO, 80127. (303) 973-9550. <http://www.smenet.org>.

MARCH

1-4. **Prospectors and Developers Association of Canada** annual meeting in Toronto. Contact: Prospectors and Developers Association of Canada, 34 King Street East, Suite 900, Toronto, Ontario CA M5C 2X8. (416) 362-1969. <http://www.pdac.ca>.

1-5. **Association of Partners for Public Lands** annual convention in Baltimore. Contact: Association of Partners for Public Lands, 2401 Blueridge Ave, Suite 303, Wheaton, MD 20902. (301) 946-9475. <http://www.appl.org>.

25-29. **North American Wildlife** conference in Phoenix, Ariz. Contact: Wildlife Management Institute, 1146 19th Street, NW, Suite 700, Washington, DC 20036. (202) 371-1808. <http://www.wildlifemanagementinstitute.org>.

APRIL

26-29. **Emerging Challenges for State and Federal Public Land Managers** joint spring conference of the Eastern Lands and Resources Council and the Western States Land Commissioners Association in Washington, D.C.. Contact: Elinor Schwartz at (703) 920-5389. es@elinorschwartz.com. <http://elrc.org>.