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FEDERAL UPDATE

Senate Dispute May Cause Further Delay for FY'10 Interior Appropriations and Historic Preservation Funding

The picture for historic preservation funding contained within the Interior appropriations bill, as well as the remaining FY10 spending bills, became clouded this week when a dispute between the Senate Leadership and the Minority Leader Mitch McConnell (R-KY) erupted about the lack of a unanimous consent agreement on how to proceed with Republican amendments being offered to spending bills still pending in the Senate. As a result, Sen. Tom Coburn (R-OK) has vowed to slow the enactment of the remaining fiscal 2010 bills by placing holds on all pending conference agreements. Coburn stated that in negotiations with the House, Senate Democrats were failing to defend amendments that he wrote and that were adopted by the full Senate.

As reported last week, Senate Interior Appropriations Subcommittee chair Dianne Feinstein (D-CA) was prepared to begin conferencing with the House to resolve the differences in historic preservation funding within the Interior bill, but decided to delay given the Senate schedule being crowded out by health care reform. The Senate may be ready to take up the health care reform bill by the end of the month, which all but guarantees a second temporary continuing resolution (CR) to keep the federal government running. The federal government is currently being funded through a temporary CR through October 31st. It is unclear if appropriators and Interior conferees will put off conferencing the Interior bill in the interim given the prospect of holds being placed on pending conference reports by Sen. Coburn.

The Historic Preservation Fund (HPF) spending (\$90.675 million) in the House Interior Appropriations bill (HR 2996) allocates \$46.5 million for State Historic Preservation Offices (SHPOs), \$8 million for Tribal Historic Preservation Offices (THPOs), \$30 million for Save America's Treasures (SAT) grants, and \$6.175 million for the Preserve America. The Senate version of the Interior bill matches the House funding levels for SHPOs and THPOs, but reduces funding for SAT grants (\$20 million) and Preserve America (\$3.175 million) for a total of \$74.5 million for the HPF. In addition, the Senate bill funds Preserve America out of the National Park Service's National Recreation budget instead of the HPF.

House Leadership Seeks Revenue from TARP Funds for Long-Term Highway Reauthorization Bill

House Democratic leaders made a sudden and dramatic push to enact a six-year surface transportation authorization by year's end as a part of a larger stimulus to jump-start economic recovery. Key members of the House leadership have also floated the idea of using unused funding from the Troubled Assets Relief Program (TARP), passed last year to keep the economy from collapsing, in combination with transfers from the general fund of the

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U.S. Treasury as a way to fund the long-term highway reauthorization bill.

In addition, Transportation and Infrastructure chairman James Oberstar (D-MN) made an impassioned plea before the House Democratic Caucus on Tuesday to support the highway authorization bill as “the future stimulus.” Oberstar also noted that states have identified at least 8,000 transportation projects that could be started immediately if the funding were made available. In a related development, House Speaker Nancy Pelosi (D-CA) announced her plans to convene a forum of economic experts next week to discuss the possibility for further economic stimulus that will target job creation. Pelosi’s forum will also examine ways to push states to spend stimulus funding more quickly – which undoubtedly will include transportation spending.

All of this activity comes on the heels of the Senate Environment and Public Works Committee agreeing to a three-month extension of the surface transportation authorization bill (HR 3617) that passed the House on September 23rd but which ran afoul of an \$8.7 billion rescission written into current law (PL 109-59) that requires authorized transportation spending to match the obligation limits set by the appropriations committees. In the interim, a 30-day, temporary extension of surface transportation funding will expire in the current continuing resolution (CR) at the end of the month. If the rescission snag is not resolved, states face the loss of hundreds of millions of dollars they were counting on for highway projects, which appears to be the impetus for the Democratic Leadership’s new push for a quick infusion of revenue for the highway authorization.

The National Trust is closely monitoring developments on the surface transportation reauthorization and any attempts to expedite consideration of the bill without anything less than a full review of its provisions as they may affect historic preservation protections and funding for transportation-related historic and cultural resources.

Interior Department Releases Report Critical of BLM Oil and Gas Leasing Program

A report commissioned by the Interior Department was released this week which proposes reforms in the Bureau of Land Management’s (BLM) oil and gas leasing process.

The 39-page report, commissioned in July of this year to evaluate BLM’s handling of 77 contested leases in Utah, offers a broad blueprint for guiding substantive changes in how BLM handles oil and natural gas leasing. The first of these reforms could be announced later this month. While the details of proposed reforms remain unknown, some of the possible changes include the possible slowing of permit decisions so that regulators can better balance

[Interior Report Cites BLM Deference to Oil and Gas Industry in Nominating Land Parcels for Development Without Adequate Consideration for Protection of Public Lands, Cultural Resources](#)

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Committee Hearing
and Mark Up in
Senate Provides
Opportunity for
Historic
Preservation and
Energy-Efficiency
Provisions for Older
and Historic
Buildings

domestic energy development against natural resource protection, as well as new measures to reduce BLM's reliance on industry to nominate parcels for development. One section of the report focus particular attention on the impact of dust created by oil field traffic on archeological sites and rock images in the Nine Mile Canyon area.

Nine Mile Canyon was listed on the National Trust's Eleven Most Endangered Historic Places List in 2004. To learn more about threats to Nine-Mile Canyon, please visit <http://www.preservationnation.org/take-action/advocacy-center/action-alerts/nine-mile-canyon-at-risk.html>.

EPW Committee Schedules Hearing and Mark Up for Senate Climate Change Bill

The Senate Environment and Public Works (EPW) Committee will hold hearings on its climate change bill (S. 1733) — introduced by Sens. Barbara Boxer (D-CA) and John Kerry (D-MA) — starting the week of October 27th and possibly begin marking up the bill either the first or second week of November. The Environmental Protection Agency (EPA) is currently doing a cost analysis of the Boxer-Kerry bill in advance of the hearings later this month. The EPW committee is just one of five committees with jurisdiction over the final shape of the climate change bill in the Senate.

The Boxer-Kerry bill includes smart growth provisions, energy-efficiency incentives for historic properties and green job-training. In addition, the bill's "district energy" provisions provide preservationists with an opportunity to include the more advanced concepts of embodied energy and superior Life-Cycle Costs and Analysis (LCA) of older and historic buildings in the mix of eligible activities for grant funding based on savings of [potential] "mechanical energy."

S. 1733 also prescribes the creation of a national building code, which poses another challenge and opportunity for historic preservationists to advocate for the inclusion of performance-based standards of energy efficiency for older and historic buildings as an alternative to prescriptive building codes, which tend to favor new construction.

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Public Policy Weekly Bulletin

October 16, 2009 — Volume 4, Issue No. 32