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House Republicans call for ESA overhaul (E&E Daily, 10/14/2011) Allison Winter, E&E reporter

House Republicans are eyeing changes to the Endangered Species Act, the landmark environmental law that has incited passionate feelings for and against its efforts to save species on the brink.

At a hearing in a panel of the House Science Committee yesterday, witnesses from universities, state agencies and the George W. Bush administration criticized the 37-year-old act's use of science, its recovery goals and its incentives for landowners.

"It is time for an overhaul of the Endangered Species Act," said Rep. Paul Broun (R-Ga.), chairman of the Subcommittee on Investigations and Oversight.

Broun and other Republicans hope to reignite a debate over ESA that had been silent during Democratic control of Congress. The last significant effort to overhaul the landmark conservation law came in 2005, when the House approved a major ESA rewrite from then House Resources Chairman Richard Pombo (R-Calif.).

Pombo's substantial changes to the act never became law. The House rewrite was dead on arrival in the more moderate Senate. And Senate efforts to gain bipartisan consensus around some changes to the act eventually fell flat. When Democrats took control, the once fever-pitched debate among land-rights advocates and environmentalists died down for several years.

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FOREST SERVICE: Court finds Mont. forest plan complies with NEPA, wilderness law (Greenwire, 10/13/2011) Lawrence Hurley, E&E reporter

A federal appeals court ruled yesterday that the Forest Service did nothing wrong when it adopted a new travel management plan for parts of the Lewis and Clark National Forest in Montana.

Recreational groups claimed the government had violated both the National Environmental Policy Act (NEPA) and the Montana Wilderness Study Act when it approved the plan in 2007.

In yesterday's ruling, the San Francisco-based 9th U.S. Circuit Court of Appeals rejected that contention and reversed the decision of U.S. District Judge Sam Haddon of the District of Montana in the process.

In doing so, the court adopted guidance issued by the White House Council on Environmental Quality on the issue, a move some other federal appellate courts have already made. The Lewis and Clark plan governs both motorized and nonmotorized vehicular access to 1.1 million acres of the forest. The service designated 1,366 miles for motorized vehicle use.

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INFRASTRUCTURE: White House expedites environmental reviews for 14 projects ([Greenwire](#), 10/11/2011), Jason Plautz and Phil Taylor, E&E reporter

Fourteen federally funded construction projects -- including the Tappan Zee Bridge in New York, a New Mexico water treatment facility and a California wind generation project -- will move on a faster timeline under an expedited environmental review process announced today by the White House.

The goal is to accelerate construction and create jobs by relaxing planning and review processes, the White House said. Today's announcement follows an August [presidential directive](#) [www.whitehouse.gov/the-press-office/2011/08/31/presidential-memorandum-speeding-infrastructure-development-through-more] that agencies shorten the permitting decisions and environmental reviews for projects that could be completed in 18 months.

"While many of these review processes are not under the control of the federal government -- state, local, and tribal governments are partners in the effort, as well -- the Obama administration is committed to reforming the federal permitting and environmental review process to ensure that it runs as efficiently as possible while continuing to protect the health and safety of all Americans, and to preserve opportunities for public participation in federal decision-making," the White House said in a release today.

The administration said it would use the 14 projects as models for larger improvements to federal permitting. Both Republicans and Democrats have called for upcoming transportation reauthorization legislation to include provisions to expedite the process.

The Tappan Zee Bridge project, which will require coordination among several federal agencies, is the focus of an effort to reduce duplicative reviews and take several years off the development timeline. Likewise, a rail line in Baltimore will start construction earlier and will finish as much as two years sooner than expected because of shortened reviews.

The White House said it will also expedite the permitting of oil wells and pipelines in the Dakota Prairie and Little Missouri national grasslands in North Dakota, where oil production has boomed in the past decade in the Bakken Shale.

The agency will coordinate with the Bureau of Land Management to issue categorical exclusions under the 2005 Energy Policy Act, which allow expedited permitting for operators that drill in previously disturbed lands or in areas where an environmental review has already taken place.

Sherri Schwenke, a spokeswoman for the grasslands, said companies have previously used mostly private lands to access the Bakken, but are beginning to flock to public lands.

"We're kind of next on the radar," she said.

BLM in July sold some 32,000 acres of federal parcels in the Dakotas for more than \$66 million, the second-largest lease sale in agency history. Many of those parcels were in the Bakken, which the U.S. Geological Survey in 2008 estimated contains up to 4 billion barrels of recoverable oil. Recent industry estimates have put the number much higher.

The administration said there are approximately 80 applications currently on file in the grasslands for new wells, oil pipelines and transmission lines to power drilling.

The projects announced today also include habitat restorations in California and Washington and wind-generation facilities in Vermont and California.

According to federal estimates, a construction project takes 12 to 15 years from its initial planning to completion, with the bulk of the time spent on reviews. Under a Department of Transportation pilot program, California streamlined its environmental review process and shaved an average of 15 months off each new project.

[Click here](#) for a list of expedited projects. [www.whitehouse.gov/the-press-office/2011/10/11/obama-administration-announces-selection-14-infrastructure-projects-be-e]

WETLANDS: U.S. making progress in efforts to stem losses – Interior (E&E News PM, 10/6/2011) Phil Taylor, E&E reporter

Wetlands disappeared at a slightly faster rate over the last five years, but overall losses have declined markedly over the past 60 years, according to a new [report](#) from the Interior Department. [www.fws.gov/wetlands/Docs/StatusTrendsWetlandsConterminousUS2004to2009.pdf]

While the loss in net acreage over the past five years was not statistically significant, it underscored the need for continued conservation and restoration efforts, the report says.

An estimated 62,300 acres of wetlands was lost between 2004 and 2009, bringing the nation's total wetlands to just over 110 million acres in the lower 48 states.

The causes of the loss were complex but likely reflect economic conditions, land-use trends, changing wetland regulation and enforcement and climatic changes, the report found.

Important losses occurred in forested and coastal wetlands that act as storm buffers, filter pollution and provide critical habitat for fish, wildlife and plants.

"Wetlands are at a tipping point," said Interior Secretary Ken Salazar in a statement. "While we have made great strides in conserving and restoring wetlands since the 1950s -- when we were losing an area equal to half the size of Rhode Island each year -- we remain on a downward trend that is alarming."

The greatest losses occurred in the Southeast, primarily freshwater wetlands of the Atlantic and Gulf coastal plain, and the Lower Mississippi River. The Great Lakes states, the prairie pothole region near the Dakotas and rapidly developing metropolitan areas nationwide also experienced losses, the report says.

The loss of 62,300 acres from 2004 to 2009 contrasts with the 160,000 acres that was gained over the previous five-year period.

For comparison, the nation lost half a million acres of wetlands annually in the 1950s and '60s and perhaps much more in preceding years, although data is less reliable.

"The latest report is somewhat discouraging," said Scott Yaich, director of conservation operations at Ducks Unlimited, who was not part of the study. "It shows that overall wetlands loss is beginning to accelerate after the loss rate had been slowing over the last couple of decades."

Salazar said threats to places like the Mississippi River Delta should serve as a "call to action" for strengthening conservation and restoration partnerships with states, tribes and other partners.

While the report did not examine the water quality or habitat conditions of wetlands, it notes that a further study has been initiated by U.S. EPA in partnership with the Fish and Wildlife Service and other federal, state and tribal partners.

Valerie Fellows, a FWS spokeswoman, said many wetland areas were restored over the past five years thanks to incentives at the Agriculture Department, including the Conservation Reserve Program and the Wildlife Habitat Incentives Program.

Other initiatives include Interior's North American Wetlands Conservation Act, which leverages non-federal dollars to acquire and conserve wetlands. Funding for the program is slated to be cut roughly in half under the House's proposed fiscal 2012 budget.

The Interior report notes that wetlands help hold and slowly release floodwater and snowmelt, recharge groundwater, recycle nutrients and provide recreational opportunities.

PUBLIC LANDS: BLM unveils 15-year plan for landscape conservation system ([Land Letter](#), 10/6/2011) Phil Taylor, E&E reporter

The Bureau of Land Management has released a 15-year plan for managing 27 million acres of its most scenic, culturally rich and scientifically important lands.

The [plan](#), [www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/news_release_attachments.Par.16615.File.tmp/NLCS_Strategy.pdf] unveiled late last week, focuses on a mix of conservation and other compatible uses for the National Landscape Conservation System, which was introduced under the Clinton administration and made into law by President Obama.

The plan emphasizes collaborative management on a landscape scale while raising awareness of the values of conservation, BLM Director Bob Abbey said.

"By continuing to collaborate and successfully develop new partnerships, the BLM can ensure that future generations of Americans have the chance to use and experience these incredible lands just as we do today," Abbey said in a statement. "We recognize that the best ideas for conservation come from folks on the ground, and the NLCS strategy provides Americans with enhanced opportunities to share in the stewardship of the lands they treasure."

The strategy will emphasize conservation while still allowing other uses that were drawn out in designating legislation or presidential proclamations, BLM said. Youth engagement will be a key focus.

The decade-old NCLS has nearly 900 units that feature trails and waterways. The agency's 250-million-acre estate last year took in 58 million visits and contributed more than \$100 billion to the national economy, it said.

The program is not without critics. Rep. Rob Bishop (R-Utah) in February proposed stripping the program of all funding for the remainder of the fiscal year, but later withdrew his proposal from the floor ([Greenwire](#), Feb. 17).

"Each year millions of tax dollars are poured into this duplicative program within the BLM that could be used elsewhere to enhance and improve existing federal lands," he said in a statement responding to the plan. "A 15-year plan is awfully presumptuous."

A report last year from The Wilderness Society gave BLM an "C" grade for managing NLCS lands, citing a lack of resources and inconsistent management approaches across different sites ([Land Letter](#), Oct. 21, 2010).

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Defenders of the program, including the Conservation Lands Foundation, have said attempts to attack it would threaten places such as Nevada's Red Rock Canyon outside of Las Vegas, which draws 1 million visitors each year and generates substantial regional economic benefits.

The system is critical for the agency to protect priceless cultural artifacts and petroglyphs and promote recreation like hunting, fishing, camping and rock climbing, the group notes.

PUBLIC HEALTH: NIH funds studies of groups most susceptible to climate change ([Greenwire](#), 10/6/2011) Gayathri Vaidyanathan, E&E reporter

Seeking to identify populations vulnerable to rising temperatures, the National Institutes of Health will put forth \$3 million in funding for seven research projects looking into the health effects of climate change.

Two other projects will receive funding from the National Institute on Aging and the Fogarty International Center.

The projects, led by the National Institute of Environmental Health Sciences, will explore the risk factors that make people vulnerable to heat exposure, changing weather patterns, and exposure to air pollution and toxic chemicals.

"The research from this program will help guide public health interventions, to ultimately prevent harm to the most vulnerable people," John Balbus, NIEHS senior adviser for public health, said in a statement.

A key goal is to identify at-risk populations since climate change may have an effect on heat stress, asthma, cardiovascular disease and stroke. The funding follows a [report](#) [www.niehs.nih.gov/health/assets/docs_a_e/a_human_health_perspective_on_climate_change.pdf] last year that said identifying vulnerable populations, such as children and the elderly, should be a priority.

"The environmental consequences of climate change, both those already observed and those that are anticipated, such as sea-level rise, changes in precipitation resulting in flooding and drought, heat waves, more intense hurricanes and storms, and degraded air quality, will affect human health both directly and indirectly," the report states.

Modeling vulnerable populations is difficult because scientists are still working out the magnitude and distribution of future health impacts based on climate models.

The researchers involved in the projects are:

- Ralph Delfino, researcher at the University of California, Irvine, who will study asthma by identifying populations of children with asthma who will become increasingly vulnerable to air pollutants expected to increase with climate change.
- Julia Gohlke at the University of Alabama at Birmingham, who will look at the health effects of heat waves in urban versus rural communities.
- Karen Levy at Emory University, who will study gastrointestinal disease by examining the impact of current climate and future projections on the incidence of such diseases in Ecuador.
- Jonathan Patz at the University of Wisconsin, Madison, who will identify at-risk populations using a model that includes climate, air quality, power plant emissions and health variables.
- Roger Peng at Johns Hopkins University, who will quantify the biological, environmental and socioeconomic factors that make people vulnerable to extreme heat.
- Joel Schwartz at Harvard University, who will monitor elderly people, looking at the changing weather patterns that put them at greater risk. He will also try to identify the underlying medical and individual factors that put some people at greater risk of dying due to weather.

- Antonella Zanobetti, also at Harvard University, who will work on a system to forecast high risk days caused by pollutants, to see whether reducing pollution on those days will improve cardiovascular health in people.
- Ying Zhou at Emory University, who will develop models to pinpoint the places where the health impacts of climate change will be largely felt.

The NIEHS expects to fund other projects that look at the health effects of climate change.

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But now House Republicans, again wielding the gavel in their chamber, are hoping to revive efforts to change the act. Broun gathered critics of the law yesterday at a hearing that took aim at the act's use of science and its recovery rates for listed species.

"In terms of effectiveness, I believe it would be hard to argue that the law has been anything but an abject failure," Broun told the committee.

In an interview after the hearing, Broun said he is not sure what his panel's next steps will be but that he wants to continue oversight of the act.

"I think the Endangered Species Act is an important issue that we need to face as a nation and how it's being applied from a scientific basis and how the policy that we develop here can be based on good science," Broun said. "That's what we're going to be looking at."

But Democrats on his panel were largely supportive of the act and its efforts to protect plants and wildlife.

"Let's make no mistake about it, the Endangered Species Act, when it is allowed to work, protects wildlife from utter destruction," said subcommittee ranking member Donna Edwards (D-Md.).

The Science Committee has jurisdiction of the science that informs ESA, but any rewrite efforts would likely come from the House Natural Resources Committee. The chairman of that panel, Rep. Doc Hastings (R-Wash.), is also eyeing changes to ESA.

"We have a duty to act on the ESA's reauthorization and it needs to be updated in a calm, careful and bipartisan way," Hastings said in remarks this past summer.

The Natural Resources Committee plans to hold oversight hearings on the act this fall, a committee aide said yesterday. Hastings said the law has expired and criticized it for attracting lawsuits and "failing to achieve its fundamental goal of species recovery."

The theme of species recovery was prominent in the last ESA debate. Critics claim the act has failed because only 1 percent of its 2,000 listed species have been recovered.

Broun said of ESA, "As a tool for advancing other special interest policy goals, it has certainly been very influential, but I'm not sure that was the act's original intent."

"We need to make saving endangered species more important than saving the Endangered Species Act as it is written," said Jonathan Adler, a law professor at Case Western Reserve University.

But defenders of the law say those metrics of measuring success are unfair. The law should be called a success, they say, because it has stabilized imperiled species and protected them from extinction.

"The ESA is our best and strongest tool to conserve biodiversity at the species and ecosystem levels," Francesca Grifo of the Union of Concerned Scientists said in testimony to the committee.

Gary Frazer, assistant director of endangered species for the Fish and Wildlife Service, said that the act has had "remarkable successes," preventing the extinction of hundreds of species and promoting the recovery of the bald eagle, the American alligator, brown pelican, Tennessee purple coneflower and many others.

"Success under the ESA is not only defined by removal of species from the list of endangered and threatened species," Frazer told the panel. "The fact that relatively few observed extinctions have occurred in the United States during the last four decades represents a significant benchmark of success of the ESA."

But many GOP lawmakers want to see changes to the act. House Science Chairman Ralph Hall (R-Texas) and Reps. Dan Benishek (R-Mich.) and Sandy Adams (R-Fla.) each said that states should have more responsibility in species management and recovery.

Forest Service *continued from page 1...*

The recreational groups, including the Montana Trail Vehicle Riders Association, claimed the government had violated NEPA by failing to reach a decision based within the range of alternatives highlighted in the environmental impact statement.

They also claimed that the agency failed to issue a new environmental impact statement despite making various changes to the draft.

Judge Raymond Fisher wrote in the opinion, on behalf of a unanimous three-judge panel, that the revisions made did not necessitate a new study being made.

The CEQ guidance states that a supplemental study does not have to be made if the change constitutes a "minor variation" of one of the alternatives suggested in the draft and is "qualitatively within the spectrum of alternatives."

The revisions to the Lewis and Clark plan ticked both those boxes, Fisher said.

[Click here](http://www.eenews.net/assets/2011/10/13/document_gw_01.pdf) to read the ruling. [www.eenews.net/assets/2011/10/13/document_gw_01.pdf]

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