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Legislative Bulletin ..... October 24, 2011

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H.R. 441 - Kantishna Hills Renewable Energy Act of 2011
(Young, R-AK)

Order of Business: The bill is scheduled to be considered on Monday, October 24, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 441 would authorize the Secretary of Interior to issue microhyrdo permits in the Kantishna Hills area. Kantishna Hills is located within Denali National Park and Reserve.

The legislation would also allow the Secretary to exchange land with Doyon Tourism, Inc. (Doyon). The legislation does not specifically indicate the size of the land that would be obtained by Doyon, nor does it indicate the exact location of the land exchanged. However, this legislation does indicate that if the Secretary exchanges land with Doyon, the Secretary would obtain approximately 18 acres that is currently owned by Doyon.

In the event that the land exchanged between the Secretary and Doyon are not of equal value, the acreage amounts may be adjusted. Any land obtained by the Secretary would become park of Denali National Park and Reserve.

Committee Action: H.R. 441 was introduced on January 25, 2011, and referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands, which held hearings and discharged the legislation. The full committee held a markup on July 15, 2011, and the legislation was approved by unanimous consent, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the bill would have no significant impact on the federal budget. CBO's report can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-158 states H.R. 441 "contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: House Report 112-158 states H.R. 441 "does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives."

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states: "Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2."

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H.R. 295 - To amend the Hydrographic Services Improvement Act of 1998 to authorize funds to acquire hydrographic data and provide hydrographic services specific to the Arctic for safe navigation, delineating the United States extended continental shelf, and the monitoring and description of coastal changes, as amended (Young, R-AK)

Order of Business: The bill is scheduled to be considered on Monday, October 24, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 295 would amend the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d) and would authorize the following amounts for fiscal year 2012 and 2013:

- $5,000,000 to purchase hydrographic data, provide hydrographic services, conduct coastal change analyses necessary to ensure safe navigation, and improve the management of coastal change in the Arctic; and
- $2,000,000 to "acquire hydrographic data and provide hydrographic services in the Arctic necessary to delineate the United States extended Continental Shelf."

Additional Information According to CBO: S. 1582, which passed the House by voice vote on September 28, 2009, authorized the appropriation of $182 million for fiscal year 2012 for NOAA to carry out hydrographic activities. H.R. 295 would authorize NOAA to use a portion ($7 million) of those amounts in 2012 to carry out certain hydrographic activities in the Arctic.

Committee Action: H.R. 295 was introduced on January 12, 2011, and referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands, which held hearings and discharged the legislation. The full committee held a markup on July 15, 2011, and the legislation was approved by unanimous consent, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing H.R. 295 would cost $7 million over the 2013-2016 period, assuming appropriation of the authorized amounts.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The legislation would authorize for appropriation $7,000,000 for fiscal year 2012 and 2013.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-157 states H.R. 295 "contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: House Report 112-157 states H.R. 295 "does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives."

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states: "Congress has the power to enact this legislation pursuant to the following: Article I, Section8, Clause 3."

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H.R. 461 - South Utah Valley Electric Conveyance Act (Chaffetz, R-UT)

Order of Business: The bill is scheduled to be considered on Monday, October 24, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 461 would direct the Secretary of the Interior to convey the title of the electric distribution system (including land and fixtures) to the South Utah Valley

Electric Service District. This electric distribution system is located in Spanish Fork, Utah.

The Secretary would also convey perpetual licenses for:

- The use of shared power poles; and
- The access, for purposes of operation, maintenance, and replacement of all project lands and interests in irrigation and power facilities lands.

The legislation directs the Secretary to comply with requirements under the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and any other law applicable to the land and facilities.

Once conveyed, the land and facilities will no longer be considered part of a federal reclamation project. Additionally, the South Utah Valley Electric Service District will not be entitled to receive any future Bureau of Reclamation benefits, unless those benefits are available to other non-Bureau of Reclamation facilities.

If this exchange occurs, the Secretary would be required to submit a report within 30 days that:

- "Describes the status of the conveyance;
- "Describes any obstacles to completing the conveyance; and
- "Specifies an anticipated date for completion of the conveyance."

Additional Information: According to House Report 112- 217:

> The Bureau of Reclamation (Reclamation) initiated the development of the Strawberry Valley Project (SVP) in Utah in 1906. Today, the SVP includes the Strawberry Dam and Reservoir, several diversion dams, canals, three power plants and a 296-mile long electric transmission and distribution system. The Strawberry Water Users Association (SWUA), which operated the SVP until 1986 and repaid all applicable construction costs of the electricity distribution system to the federal government, also owned a portion of that system.
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> In 1986, SWUA sold its portion of the electric distribution system to the South Utah Valley Electric Service District (SESD). Since there was a mix of federal and non-federal ownership of the electricity distribution system, Reclamation approved the sale only on the condition that the sale be limited to those portions that were not part of the original SVP or were not constructed on federal lands or easements. At the time, Reclamation, SWUA and the SESD believed that most of the distribution system was non-federal. However, Reclamation recently determined that most of the distribution system was built on federal easements acquired early in the SVP history. Reclamation, as a result, now believes that most of the distribution system still belongs to the federal government. It has not quantified how much of the system it owns, however, due to inadequate paperwork. The federal government's determination has created system management and ownership uncertainty since it is unclear to either SESD or Reclamation what entity owns which portions of the electric distribution system. H.R. 461's title transfer resolves this confusion by placing the entire system in local ownership.

Committee Action: H.R. 461 was introduced on January 26, 2011, and referred to the House Natural Resources Subcommittee on Water and Power, which held hearings and discharged the legislation. The full committee held a markup on July 20, 2011, and the legislation was approved by unanimous consent, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the bill would have no significant impact on the federal budget. CBO's report can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-217 states H.R. 441 "contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: House Report 112-217 states H.R. 441 "does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives."

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states: "Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2."

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H.R. 320 - Distinguished Flying Cross National Memorial Act (Calvert, R-CA)

Order of Business: The bill is scheduled to be considered on Monday, October 24, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 320 would designate the memorial to members of the Armed Forces who have been awarded the Distinguished Flying Cross, located at March Field Air Museum in Riverside, California, as the Distinguished Flying Cross National Memorial.

This memorial is not within the National Park System, and this legislation clarifies that this designation does not require or permit federal funds to be expended to the memorial.

The legislation contains a number of findings, including:

- "The most reliable statistics regarding the number of members of the Armed Forces who have been awarded the Distinguished Flying Cross indicate that

126,318 members of the Armed Forces received the medal during World War II, approximately 21,000 members received the medal during the Korean conflict, and 21,647 members received the medal during the Vietnam War. Since the end of the Vietnam War, more than 203 Armed Forces members have received the medal in times of conflict."

- "The United States currently lacks a national memorial dedicated to the bravery and sacrifice of those members of the Armed Forces who have distinguished themselves by heroic deeds performed in aerial flight."
- "An appropriate memorial to current and former members of the Armed Forces is under construction at March Field Air Museum in Riverside, California."

Committee Action: H.R. 320 was introduced on January 19, 2011, and referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands, which held hearings and discharged the legislation. The full committee held a markup on July 15, 2011, and the legislation was approved by unanimous consent, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the bill would have no effect on discretionary spending. CBO's report can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The legislation designates a new national memorial. However, this memorial is not part of the National Park System and this legislation does not authorize federal funds to be spent.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-170 states H.R. 441 "contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: House Report 112-170 states H.R. 441 "does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives."

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states: "Congress has the power to enact this legislation pursuant to the following: The power granted to Congress under Article 1, Section 8, Clause 1 of the United States Constitution."

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H.R. 818 - To direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Uintah Water Conservancy District *(Matheson, D-UT)*

Order of Business: The bill is scheduled to be considered on Monday, October 24, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 818 would direct the Secretary of the Interior to allow the prepayment of the repayment contract no. 6-05-01-00143 between the United States and the Uintah Water Conservancy District. This contact is dated June 3, 1976, and was amended on November 1, 1985, and on December 30, 1992.

The prepayment--

- "Shall result in the United States recovering the net present value of all repayment streams that would have been payable to the United States if this Act was not in effect;
- "May be provided in several installments to reflect substantial completion of the delivery facilities being prepaid, and any increase in the repayment obligation resulting from delivery of water in addition to the water being delivered under this contract as of the date of enactment of this Act;
- "Shall be adjusted to conform to a final cost allocation including costs incurred by the Bureau of Reclamation, but unallocated as of the date of the enactment of this Act that are allocable to the water delivered under this contract;
- "May not be adjusted on the basis of the type of prepayment financing used by the District; and
- "Shall be made such that total repayment is made not later than September 30, 2022."

Additional Information: According to CBO: "The Uintah Water Conservancy District is currently paying the federal government about $227,000 a year on a balance of $3.9 billion in project construction costs that have been allocated to the district for repayment. However, if the district chose to prepay its debt to the government under the bill, it also would have to pay for additional construction costs—totaling $7.4 million—that have not yet been assigned to the district for repayment. Information from the district indicates that it would be unable to prepay that additional amount. Therefore, if the bill were enacted, CBO expects that the district would continue to make the annual payments it does under current law and the legislation would have no impact on the federal budget."

According to House Report 112-247: "Under current federal law, water districts which benefit from Bureau of Reclamation projects can enter into a capital repayment contract with the federal government to repay the U.S. Treasury for their respective costs associated with the federal project. Most local water districts are not allowed under federal law to prepay these contractual obligations unless specifically authorized by Congress and the President. Prepayments can bring added revenue to the U.S. Treasury in the short-term, although they can reduce overall federal revenue over the long-term since compounded interest payments would be reduced. From a local water utility perspective,

these prepayment authorizations can reduce local financial obligations and, in some cases, reduce burdensome federal regulatory requirements (such as irrigation acreage limitations and reporting requirements set forth in the Reclamation Reform Act of 1982, Public Law 97-293)."

Committee Action: H.R. 818 was introduced on February 18, 2011, and referred to the House Natural Resources Subcommittee on Water and Power, which held hearings and discharged the legislation. The full committee held a markup on July 20, 2011, and the legislation was approved by unanimous consent, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that enacting the legislation would have no impact on the federal budget. CBO's report can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-247 states H.R. 441 "contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: House Report 112-247 states H.R. 441 "does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives."

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states: "Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8."

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H.R. 1160 - McKinney Lake National Fish Hatchery Conveyance Act, as amended *(Kissell, D-NC)*

Order of Business: The bill is scheduled to be considered on Monday, October 24, 2011, under a motion to suspend the rules and pass the legislation.

Summary: H.R. 1160 directs the Secretary of the Interior to convey to the state of North Carolina, without reimbursement, a 422 acre parcel located at 220 McKinney Lake Road, in Hoffman, in Richmond County, North Carolina. This property is commonly known as the McKinney National Fish Hatchery.

The legislation directs the state of North Carolina to use this property for fishery and wildlife resources management. If the state used the property for any other purpose, the title would revert back to the United States government.

As a condition of receiving the property, the state would allow the U.S. Fish and Wildlife Service to use the property in cooperation for propagation of any critically important aquatic resources held in public trust to address specific restoration or recovery needs of such resource.

Committee Action: H.R. 1160 was introduced on March 17, 2011, and referred to the House Natural Resources Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs, which held hearings and discharged the legislation. The full committee held a markup on July 15, 2011, and the legislation was approved by unanimous consent, as amended.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: CBO estimates that implementing the bill would have no significant impact on the federal budget. CBO's report can be found here.

Does the Bill Expand the Size and Scope of the Federal Government?: No. The legislation would direct the Secretary of the Interior to convey a 422 acre parcel to the state of North Carolina.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: House Report 112-168 states H.R. 441 "contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: House Report 112-168 states H.R. 441 "does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives."

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states: "Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2."

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H.R. 2594 – European Union Emissions Trading Scheme Prohibition Act (Mica, R-FL)

Order of Business: The legislation is scheduled to be considered under suspension of the rules on Monday, October 24, 2011. The bill will require two-thirds majority vote for passage, and provides forty minutes of debate equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure.

Summary: H.R. 2594 will prohibit operators of U.S. civil aircraft from participating in the European Union's emissions trading scheme. The legislation requires the Secretary of Transportation to prohibit an operator of a civil aircraft of the United States from participating in any emissions trading scheme unilaterally established by the European Union. H.R. 2594 also requires the Secretary of Transportation, the Administrator of the Federal Aviation Administration, and other appropriate officials of the United States Government to use their authority to conduct international negotiations and take other actions necessary to ensure that operators of civil aircraft of the United States are held harmless from any emissions trading scheme unilaterally established by the European Union.

Background: Starting in 2012, the Emissions Trading Scheme will cover emissions from air carriers that operate flights within, to, and from European Union member states. According to the committee report, "the European Union's Emissions Trading Scheme (EU ETS) began in 2005 with the capping of emissions of carbon dioxide (CO2) from more than 10,000 stationary sources within the EU (covered sectors include: power plants; petroleum refining; iron and steel production; coke ovens; pulp and paper; and cement, glass, lime, brick, and ceramics production). Under the ETS, the EU auctions a specified number of emissions allowances for each multi-year period, and distributes a certain number of allowances for free. A covered emitter is required to submit to regulatory authorities one allowance for each ton of CO2 emitted during the period. There is an active market for allowance trading, in which the emitter may sell unneeded allowances to others or purchase whatever additional allowances it requires." The following concerns were listed in the legislation's findings:

- The European Union has unilaterally imposed an emissions trading scheme (ETS) on non-European Union aircraft flying to and from, as well as within, Europe.
- The United States airlines and other United States aircraft operators will be required under the ETS to pay for European Union emissions allowances for aircraft operations within the United States, over other non-European Union countries, and in international airspace for flights serving the European Union.
- The European Union's extraterritorial action is inconsistent with long-established international law and practice, including the Chicago Convention of 1944 and the Air Transport Agreement between the United States and the European Union and its member states, and directly infringes on the sovereignty of the United States.
- The European Union's action undermines ongoing efforts at the International Civil Aviation Organization to develop a unified, worldwide approach to reducing aircraft greenhouse gas emissions and has generated unnecessary friction within

the international civil aviation community as it endeavors to reduce such emissions.

- The European Union and its member states should instead work with other contracting states of the International Civil Aviation Organization to develop such an approach.
- There is no assurance that ETS revenues will be used for aviation environmental purposes by the European Union member states that will collect them.
- The United States Government expressed these and other serious objections relating to the ETS to representatives of the European Union and its member states during June 2011, but has not received satisfactory answers to those objections.

Committee Action: H.R. 2594 was introduced by Rep. John L. Mica (R-PA) on 7/20/2011. On 10/5/ 2011 the legislation was reported by the Committee Transportation and Infrastructure. On 10/5/2011 the Committee on Foreign Affairs discharged the bill and placed it n the Union Calendar.

Administration Position: A Statement of Administration Policy has not been released.

Cost to Taxpayers: According to the Congressional Budget Office (CBO) report, enacting H.R. 2594 would have no significant impact on the federal budget; the bill would not affect direct spending or revenues.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO, "H.R. 2594 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). H.R. 2594 would impose a private-sector mandate, as defined in UMRA, if U.S. air carriers would be prohibited from participating in the ETS. The cost of the mandate would depend on how the prohibition is administered by the Department of Transportation. Because information about how the prohibition would be implemented is not available, CBO has no basis for estimating the cost, if any, to U.S. air carriers. Consequently, CBO cannot determine whether the cost of the mandate would exceed the annual threshold established in UMRA for private-sector mandates ($142 million in 2011, adjusted annually for inflation)."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: According to the committee report, "compliance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2594 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI."

Constitutional Authority: According Rep. Mica's statement of constitutional authority, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, specifically Clause 3 and Clause 18."

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