

LAND OWNERS

LEGISLATIVE • ALERT

By **JAY JENSEN**, Washington Office, National Association of State Foresters

Congress has now reconvened for its 107th session and is gearing up for action. For the first time in nearly a half-century, Republicans control both the Executive and Legislative Branches of the government resulting in the very real prospect of bill passage. However, legislative success will depend heavily on compromise and taking the middle ground approach because of the tight margins in both the House and the Senate. The Republicans currently hold a five-seat advantage in the House and also hold the tie-breaking vote of Vice-President Dick Cheney in the evenly split Senate.

So what is on the minds of legislators related to private forestry? We will likely see immediate attention on many of the hot issues that were left unresolved at the end of the 106th Congress. The Conservation and Reinvestment Act (CARA) will be introduced again and Republican leaders, including President Bush, have already begun investigating the federal rules that were finalized as Clinton left office. This includes the USDA Forest Service's roadless area rule and the EPA's Total Maximum Daily Load program. Below is a brief breakdown of these issues and more.

Conservation and Reinvestment Act

CARA was the largest and most popular single piece of natural resource related legislation to move through the 106th Congress. The massive billion dollar conservation package proposed using offshore oil and gas royalty revenue to fund numerous conservation programs including two State & Private Forestry programs, the Urban & Community Forestry and Forest Legacy programs. Although it did not pass Congress last year, supporters are planning on reintroducing nearly identical legislation early in the 107th hoping to garner President

Bush's endorsement and enabling an early environmental victory for the fledgling administration.

Roadless Areas

In January 2001 the USDA-Forest Service released their plan to close off roadless areas within the National Forest System. Expected to impact nearly 60 million acres of NFS land, along with the communities and people associated with those lands, the final rule has drawn strong praise and criticism from all sides. Congress and the new Bush Administration have announced their intention to review and scrutinize the roadless policy.

Congress has a number of options, including the authority to overturn the rule under the Small Business Regulatory Enforcement Fairness Act within 60 days of finalization. This authority has never been tried previously and Congress may not be able to make the decision stick. Its application would be nebulous at best. However, we should expect introduction of legislation to stop or overturn the rule, but the prospects for passage would be highly unlikely as strong polar interests are at play. In all likelihood, we will see a number of committee hearings and investigations into the matter. Further, Congress and the administration may not act until lawsuits filed against the roadless policy begin to play out as well.

Water

There has been a significant amount of regulatory and judicial activity in the realm of forest water quality over the past year, particularly the Total Maximum Daily Load program and wetlands. Although forestry was not included in the final TMDL rule released last July, and has also not been directly impacted by any of the recent wetland ditching regulations and rulings, there is

significant interest among members of Congress and the Bush administration on these issues.

Along these lines, we can expect a number of bills to be introduced that will attempt to amend the Clean Water Act. The first out of the blocks is a bill from last session, the Fishable Waters Act (H.R. 325) introduced by Rep. Tanner (D-TN). H.R. 325 would put renewed emphasis on nonpoint source pollution abatement by empowering local watershed councils with grant-making authority. In all, we will definitely see numerous committee hearings, congressional reports and other inquiries into the business of nonpoint source water pollution, including a few major water bills, but like other issue areas, success will be hard to come by.

Endangered Species

The realm of threatened and endangered species is another area that will be of interest to the 107th Congress, but one where we will not likely see any major revisions or reauthorizations of the Endangered Species Act. There will be the requisite number of bills introduced from all camps addressing private property takings, the listing process, recovery planning and other aspects of the ESA. However, anything more than a piecemeal approach to ESA reauthorization will get into serious trouble as the tight vote margins will not allow for major, substantial changes to this highly controversial law.

Carbon Sequestration

Congressional action to ratify the Kyoto Climate Change treaty seems unlikely in this Congress, although it is not known yet how the Bush administration will approach the issue. However, businesses and others interested in climate change view carbon sequestration

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through forestry as the best way to address greenhouse gas emissions. Carbon sequestration is the process of converting carbon dioxide in the atmosphere into carbon stored in plants and soil.

Early activity on the land use front is focusing on carbon sequestration in soil and in forests. The primary forestry related carbon sequestration bill from last session came from Sen. Ron Wyden (D-OR). It was modeled on Oregon's Forest Resource Trust which operates under a revolving loan fund of sorts where landowners get afforestation assistance and the subsequent carbon credits would go to the state or other contributing interest. Another bill is anticipated by Sen. Sam Brownback (R-KS) to address both trees and soil as storage sinks for carbon.

It is unclear as to what activity forestry will attract in the 107th, but members are already showing increased

interest as Farm Bill reauthorization in 2002 provides a nice legislative vehicle for passage.

Farm Bill

Reauthorization of the Farm Bill will be a hot topic for Congress through both years of the 107th. Record high disaster and emergency price support payments to farmers have pressured Congress to act quickly on the Farm Bill, so we may see early activity on the commodity, forestry, conservation and other titles. The National Association of State Foresters is currently working on pulling together its own Farm Bill package focusing on forestry. It looks to include a new nonindustrial private forest landowner cost-share incentive program, a new watershed forestry program, special focus on the wildland-urban fire interface, carbon sequestration and other forestry related programs.

Appropriations

The delays associated with the presidential election have pushed back many administration transition activities including preparation of the fiscal year 2002 budget. Appropriation and markup hearings will likely be pushed back similarly, meaning that input into the process will be on an abbreviated timetable if Congress hopes to wrap up by the August recess.

In terms of the bigger spending picture, the available government surplus continues to build, but it appears that the good majority of this will go towards Bush's tax cut, military and education spending plans and the continued shoring up of Social Security. Sources indicate that Congress hopes to maintain current discretionary spending levels in FY 2002, but there will be enormous constituent pressures to break the spending freeze after several years of budget austerity. 🏠