

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Celina Richardson

Volume 29 Number 6, April 1, 2011

In this issue. . .

Budget crisis deepens; more cuts.

Congress up against April 8 deadline for FY '11 spending. Last interim law hit park and rec programs with reductions.... Page 1

NPS conference key to AGO work?

Healthy Parks Healthy People meeting may give NPS a major role in implementation..... Page 3

Contrasting trail bills in works.

House, Senate committees about to begin mark-up of transportation bills with different aims... Page 4

NPS nixes Colorado bike race leg.

Major sporting event will not be allowed to use Colorado Monument in 2012. Jarvis endorses... Page 5

Utah counties sue 'wild lands'.

Argue Salazar policy usurps Congress's wilderness role.. Page 6

NPS overflight bills have slowed.

House committee and full Senate approved different bills.... Page 8

Rec uneasy about FS plan draft.

Fear repeated use of 'sustainable' has negative connotations... Page 9

NPS concessioners seek big role.

Are talking to Hill, NPS about building facilities, more... Page 10

Court passes on Calif. landfill.

Lower court decision requires new EIS to back site near park.. Page 12

Notes..... Page 12

Boxscore of Legislation..... Page 14

Spending crises deepen as interim bills begin cuts

The fiscal year 2011 appropriations situation is becoming increasingly tense as Congress chips away at specific programs in temporary spending bills.

The most recent temporary fiscal 2011 bill (PL 112-6 of March 18), for instance, extracted \$72 million from federal land acquisition, \$35 million from federal construction, \$14.6 million from Save America's Treasures and \$4.6 million from Preserve America.

The largest single cut fell on emergency fire suppression. PL 112-6 rescinded \$200 million of prior year suppression money that had not been spent.

PL 112-6 provides money for fiscal 2011 until April 8 at fiscal 2010 levels, minus \$6 billion in a couple of dozen individual programs. In this next week the House and Senate, in cooperation with the Obama administration, will continue to attempt to fashion a final, full fiscal 2011 spending bill (HR 1).

At press time Senate Democratic leaders were reportedly floating a proposal to trim another \$20 billion from existing spending in a final, full fiscal 2011 appropriations bill.

The temporary spending bills (seven thus far in fiscal 2011) are beginning to hamstring individual programs because federal agencies are effectively allocating money month-to-month. Larger projects can't plan ahead.

"That's a bad way to operate," one recreation lobbyist complained to us. "There is no accountability. (Elected officials) say, 'we didn't want to hurt your programs, but we were voting on principle."

Federal land managers we contacted refused to comment. The Obama administration has reportedly placed a gag order on them to protect negotiations with Congress.

The worst may be yet to come – a government shutdown, now or later this year. One veteran of the natural resources wars, Thomas Collier, believes a shutdown is a distinct possibility. Collier, a former chief of staff to Secretary of Interior Bruce Babbitt in the Clinton administration, told us, "I think there are three possibilities (for a shutdown) between now and the end of fiscal 2012 – the fiscal 2011 appropriations bill, the vote to raise the debt ceiling and the fiscal 2012 appropriations bill."

Collier, who now practices law in the regulatory and industry affairs office of the Steptoe and Johnson firm, added, "If there is a shutdown, the parks would be shut down too."

Other sources tell us that the Interior and related agencies appropriations bill is particularly vulnerable because that measure funds EPA. Republicans in both the House and Senate have made no secret about their desire to cut off funding for EPA's regulatory programs. The Interior bill funds not just NPS and EPA but also the Forest Service, the Fish and Wildlife Service, the Bureau of Land Management, and the Bureau of Indian Affairs.

At the moment the House and Senate are at loggerheads over the fiscal 2011 permanent spending bill, HR 1. The version of a permanent HR 1 that the House approved February 19 would reduce spending compared to fiscal 2010 for all departments by \$102 billion. The Senate Appropriations Committee version of HR 1, published March 4, would reduce spending by half that much. Most recent negotiations would split the difference.

The Obama administration March 9 endorsed the Senate committee bill and threatened to veto the House bill. "The unbalanced bill would undermine the Nation's economic recovery and its ability to succeed in a complex global environment," said a Statement of Administra-

tion Policy issued by the Office of Management and Budget.

THE TEMPORARY FISCAL 2011 LAW: PL 112-6 chips away at federal land management agency spending for these programs:

* **SAVE AMERICA'S TREASURES:** The temporary bill reduces the program by \$14.6 million, compared to a \$25 million fiscal 2010 appropriation. The House Appropriations Committee notes the President's fiscal 2011 budget requests no money for the program. The fiscal 2012 budget request also asks for no money.

* **PRESERVE AMERICA:** The temporary bill reduces the program by removing the full \$4.6 million from the fiscal 2010 appropriation. The House Appropriations Committee notes the President's fiscal 2011 budget requests no money for the program. The fiscal 2012 budget request also asks for no money.

* **LAND ACQUISITION:** The temporary bill deletes a total of \$72 million in land acquisition money. By agency: BLM (\$3 million), Forest Service (\$30 million), Fish and Wildlife Service (\$22 million), and National Park Service (\$17 million.)

* **CONSTRUCTION:** The temporary bill deletes a total of \$35 million in construction money. By agency: BLM (\$2 million), Fish and Wildlife Service (\$10 million), and National Park Service (\$23 million). In addition it takes back \$7 million in Forest Service Capital Improvement and Maintenance.

* **FIRE SUPPRESSION:** House appropriators said the \$200 million rescission was advisable because the emergency money was set aside for fires last calendar year and the money was not needed.

Senate appropriators went along with the reduction because they had earlier proposed an even larger removal of \$600 million in so-called FLAME money, after the Federal Land Assistance, Management and Enhancement Act of 2009. The Senate Democratic recommendation was included in their March 4 version of a permanent fiscal 2011 money bill (HR 1).

Western governors are not on

board. They wrote House and Senate Appropriations Committee leaders March 9 and said it would be highly risky to rescind the fire suppression money.

FISCAL 2011 PERMANENT BILL: Here are a few highlights of the House-passed version of HR 1, the full-year spending bill, and the Senate Appropriations Committee version:

* Federal side of LWCF: The Senate would provide \$191.5 million more than the House, \$232.6 million compared to the \$41.1 million approved by the House. That Senate number is still less than the \$277.9 million appropriation in fiscal 2010 and well below the administration request for fiscal 2011 of \$384.1 million.

Further federal LWCF breakdown: BLM: Senate \$26.7 million, House \$2.8 million; FWS: Senate \$63.9 million, House \$15.1 million; NPS: Senate \$108.8 million, House \$14.1 million; and FS: Senate \$33.2 million, House \$9.1 million.

* State side of LWCF: Senate appropriators would provide \$40 million. The House would provide no money. The fiscal 2010 appropriation was \$40 million and the administration's fiscal 2011 request was \$50 million.

* State wildlife conservation grants: The Senate would provide \$90 million compared to a House number of no money. The fiscal 2010 appropriation was \$90 million and the administration's fiscal 2011 request was \$90 million.

* Park Service operations: The Senate would provide \$2.3 billion, or \$63 million more than the House-passed number of \$2.237 billion. The Senate roughly matches the fiscal 2011 administration request and would increase the fiscal 2010 level by \$39 million.

* Park Service construction: The Senate would provide \$210 million, or \$38 million more than the House-passed number of \$172 million. The Senate number exceeds an administration request by about \$15 million but comes in at \$30 million less than fiscal 2010.

* Park Service recreation and preservation: The Senate and House are in rough agreement at about \$58 million, or about \$10 million less than the fiscal 2010 level.

* Historic Preservation: The Sen-

ate would provide significantly more than the House, \$69.3 million compared to \$54.5 million. The fiscal 2010 allocation was \$79.5 million and the fiscal 2011 administration request was \$54.5 million. Senate appropriators didn't provide a further breakdown among individual programs.

* Forest Service recreation: The Senate would provide \$285 million or roughly the same as the fiscal 2010 level and about \$8 million less than the administration request. The House number was not available.

Park Service conference may help launch AGO health call

If the recreation establishment is going to meet the charge of the America's Great Outdoors (AGO) initiative and improve the nation's health through outdoor activity, a key step may be taken next week.

That's when the Park Service will host a Healthy Parks Healthy People conference at the Golden Gate National Recreation Area. And the hope among recreation professionals is that conference will provide a springboard to an overarching coordinating council.

Indeed the AGO report did call for the establishment of a Federal Inter-agency Council on Outdoor Recreation to coordinate federal initiatives. But a lot of recreation advocates believe any such council should go beyond federal agencies and work with state and local governments, private firms (particularly health care providers) and nonprofit groups.

"If AGO is going to be successful, it is essential that the dots are connected," said Rich Dolesh, public policy director of the National Recreation and Park Association. It represents state and local park and rec agencies. "For people to have access to the outdoors for biking and hiking and other activities, there needs to be a connection between federal lands and state and local lands."

At the Healthy Parks Healthy People conference in San Francisco 150 at-

tendees from government, nonprofits and business are expected to attempt to figure out how health and park groups can work together. Although no one is saying so explicitly, implicitly federal, state and local land managers hope to obtain a piece of the hundreds of billions of dollars the government spends each year on health programs.

An NPS spokesman said the conference is not designed specifically as a tool to implement the AGO recommendations. But, said Howard Levitt of the host Golden Gate National Recreation Area, "This is not a decision meeting, but a meeting to move the ball forward to help the Park Service establish its role in providing healthful activity, and it's really gaining momentum."

While the America's Great Outdoors initiative calls for an integration of recreation and health, it does not lay out specific ways to get there, other than the nebulous outdoor council, chaired by Council on Environmental Quality Chairman Nancy Hutley.

NPS Director Jon Jarvis March 30 laid out for the Senate Energy Committee steps the Park Service is taking to implement the AGO recommendations.

"We are developing an action plan for the AGO report specific to the National Park Service priority list of actions we can take over the next five years up to 2016 with a big component of it focused on youth," he said in response to questions from Sen. Mark Udall (D-Colo.) "We feel youth employment, youth engagement, youth involvement is a major component of that. So even if we don't get any new money, there are things specifically the National Park Service can do within our existing priorities and funds."

Jarvis added, "We are also piloting a series of very specific youth initiatives that are targeted and focused on young people of color. This is probably the greatest opportunity to build a whole new constituency for the national parks, besides the secondary benefits it provides for those young people."

Here are some of the tasks the AGO

report recommends be undertaken by a Federal Interagency Council on Outdoor Recreation:

"* Coordinate recreation management, access, and policies across multiple agencies to improve public enjoyment and recreational use of federal lands and waters.

"* Streamline and align policies and procedures among federal, state, local, tribal, and other recreation providers.

"* Improve the engagement of young people and their families in outdoor recreation through healthy, active lifestyles.

"* Target underserved and disadvantaged communities for both access to and engagement in the benefits of and opportunities for outdoor recreation.

"* Identify ways to improve access to our parks, refuges, and public lands for persons with disabilities.

"* Identify partners outside the federal government who can promote outdoor recreation and provide additional resources and access."

House, Senate committees ready contrasting trail bills

The House and Senate are on track to produce dramatically different surface transportation bills in the next few months that may determine the fate of many outdoor programs.

The House Transportation Committee, which has held a series of hearings around the country on the legislation, is expected to take the lead. "We will soon begin writing a bill," confirmed an aide to committee chairman John Mica (R-Fla.)

Mica has signaled all year that the bill will not authorize spending above existing gas tax levels, or hundreds of billions of dollars less than the Obama administration is recommending. In a budget report published last month called Views and Estimates Mica's committee said, "Given that the existing revenues from the existing user fees (gas taxes) are not adequate to support the investment needs, the Committee will consider ways to meet the challenges and needs by doing more with less."

Mica has also repeatedly signaled that he will (1) consolidate programs and (2) eliminate "fluff" programs, a code word for non-highway construction, or most rec programs. As one lobbyist told us, "Transportation enhancements, Safe Routes to Schools, those programs I think will be put under a discretionary program that will allow states to decide where to spend the money."

The Senate is marching to a different drummer. Senate Environment and Public Works Committee Chair Barbara Boxer (D-Calif.) has said she will follow the template established in the last Congress in a bill prepared by former House Transportation Committee Chairman James Oberstar (D-Minn.) That measure would have spent \$500 billion on highways and mass transit with a marked emphasis on outdoor programs.

And the Oberstar bill in turn is also providing a template for the Obama administration. It proposed a \$556 billion, six-year surface transportation program in February that would provide robust funding for such outdoor programs as transportation enhancements, recreational trails, scenic byways and federal lands roads.

The Obama budget would consolidate the programs, now funded as separate entities, into a new "Livability" line item at \$4.1 billion. Comparable programs under the existing law received \$2.9 billion in fiscal 2010.

So here is the projected calendar for Congress to write a new surface transportation bill to replace the existing law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU):

- * House committee marks up a bill in April.
- * Senate committee marks up a bill in May or June.
- * House approves bill in June.
- * Senate approves bill shortly after House acts.
- * Conference committee meets in the fall.

Given the almost-certain huge gap between a House Republican bill and a

Senate Democratic bill the chances of the conference committee reaching agreement are not great, particularly with a national election only a year away from the expected conference committee date. So some kind of two-year extension is a good possibility.

Meanwhile, the House Transportation Committee has been going about the prosaic business of holding hearings on the upcoming bill around the country. To wrap up the public consultation process the committee held two days of hearings in Washington, D.C., March 29 and 30 where it heard from 40 interest groups, including Bikes Belong and the Motorcycle Riders Foundation. However, most of the witnesses came from the construction side of the fence.

The overwhelming, number one problem for Mica is a source of money, to supplement gasoline taxes. As his aide told us, "In addition to the funds that will come in to the Highway Trust Fund, he will also be interested in value that can be found by speeding up the project process, streamlining and improving program efficiency, moving any stalled funding, private sector investment, and other innovative ideas."

As we reported last month, President Obama signed a bill into law March 4 that extends SAFETEA-LU for seven months, or until the end of September (PL 112-5). That gives Congress a little time to write a new, multi-year surface transportation law to replace the existing law that technically expired at the end of September 2009.

NPS vetoes leg of national bike race in Colo. Monument

The Park Service last week refused to play ball with sponsors of an ambitious, weeklong bike race across Colorado, rejecting an application to hold a leg of the race in Colorado National Monument in 2012.

The Park Service, supported by conservationists and agency retirees, said the commercial race would not be "appropriate" in the monument.

NPS Director Jon Jarvis himself

backed the decision to deny the permit by monument Superintendent Joan Anzelmo. "Federal law and NPS policy restrict commercial activities in national parks to those that are 'necessary and appropriate' to park purposes," he said. "This bike race is neither necessary nor appropriate in the park. Superintendent Anzelmo made the right call."

Said Rick Smith on behalf of the Coalition of National Park Retirees, "Proponents of this commercialization of a major national park should remember that National Park Service policy and regulations apply to all 394 units of the National Park System. An exception made in any single case would be precedent setting and have major impacts nationwide." Smith is a former superintendent at Carlsbad Caverns and Guadalupe Mountains National Parks.

The Quiznos Pro Challenge was announced last July and an inaugural race is scheduled for August 22-28 of this year. Legs of the race will go through Denver and such famed ski resorts as Aspen, Crested Butte, Steamboat Springs and Vail. Sponsors say the race will draw more spectators than any other event ever held in Colorado.

The bikes are the thin-tired racing vehicles used by Lance Armstrong and other competitors in the Tour de France. Sixteen teams have been signed up for the race this August, with internationally-famous sponsors, such as United Health Care and Radio Shack.

The National Parks Conservation Association (NPCA), which also praised Anzelmo's decision, said leading politicians were involved in the negotiations, "Sen. Mark Udall (D-Colo.) and Gov. John Hickenlooper (D-Colo.) have tried to establish a compromise solution with local race organizers who have been unwilling to consider reasonable alternative proposals that protect the integrity of the park," said David Nimkin, southwestern regional director of NPCA.

Nimkin said the race would have effectively closed the park to other visitors for up to six hours.

Says the race website, "The compe-

tion, destined to become the most coveted prize in cycling, brings the high speeds, danger and adrenaline of professional cycling to heights more than two miles in elevation, across some of the most picturesque terrain in the world — the Colorado Rocky Mountains."

A DIFFERENT KIND OF BIKE TRAIL: Big Bend National Park has run into a bicycle controversy of its own in a proposal to construct a mountain bike trail through the backcountry. The park described the 10-mile, single-track trail in an environmental assessment (EA) published in December. The comment period ends tomorrow (April 2.)

Public Employees for Environmental Responsibility Executive Director Jeff Ruch said, "We are not anti-mountain biking but are concerned that scarce public dollars may be diverted to promote exclusionary recreation scratched out of national park backcountry."

In its environmental assessment Big Bend said the proposal is not exclusionary. "The trail would allow for hiking and mountain biking," it said. The EA was prepared in response to an application from the International Mountain Biking Association.

Utah counties sue Salazar to block 'wild lands' policy

Utah counties took the Obama administration's 'wild lands' policy to court March 22, charging that the policy violates a mandate of The Wilderness Act that only Congress may designate wilderness.

The suit, brought by Uintah County and the Utah Association of Counties, also charges that the policy violates the Federal Lands Policy and Management Act (FLPMA) requirement that the Bureau of Land Management (BLM) follow rule-making procedures and a 2003 agreement on wilderness reviews between the Interior Department and Utah. The wild lands policy applies just to BLM-managed lands.

Uintah County Commissioner Mike McKee was optimistic about the counties' chances in court. "Frankly, we believe

we have a very good likelihood of success. We flatly believe the order is illegal and we believe we will be successful," he told us.

Secretary of Interior Ken Salazar kicked off the wild lands policy on Dec. 22, 2010, when he directed BLM to review lands with wilderness characteristics and to designate wild lands. That direction is in Secretarial Order 3310.

Until now Congress has taken the lead in enunciating western Republican complaints that the order would violate The Wilderness Act and would severely limit use of the public lands. On February 19 the House approved a fiscal year 2011 appropriations bill (HR 1) that would choke off money for the program. The Senate must still go along with that provision.

In contrast to the western Republicans, Salazar's wild lands proposal is receiving strong support from conservationists and from Rep. Ed Markey (D-Mass.), ranking minority member on the House Natural Resources Committee.

Markey went on the attack at a hearing earlier this month — against the Bush administration. "The Bush Administration did not want Congress to preserve wilderness so they volunteered to stop looking for it," he said. "Secretarial Order 3310 (Salazar's policy paper on wild lands) directs BLM to rejoin the hunt for wilderness, as required by the act. In other words, Secretarial Order 3310 is an announcement that Secretary Salazar, unlike several of his predecessors, is ready to do his job."

Now the dispute will also be fought out in court as well as in Congress.

In the suit Uintah County and the Utah Association of Counties make three general arguments: One, the policy violates The Wilderness Act and FLPMA. The suit says Order 3310 "usurps Congress' authority to alter the statutory principal multiple use priorities in the FLPMA and attempts to extend wilderness management to all public lands when FLPMA and the Wilderness Act limit wilderness management to designated WSAs or con-

gressionally designated wilderness."

Two, the policy violates FLPMA's procedural and other requirements. The suit says Order 3310 "fails to follow the procedures established in FLPMA for implementing its provisions through rulemaking, amending resource management plans, withdrawing public lands from mineral development, coordinating with state and local governments, evaluating and ensuring consistency with state and local government plans, and examining the possible environmental impacts of a federal action before it is adopted."

Three, the policy violates the 2003 agreement between then Secretary of Interior Gail Norton and former Utah Gov. Mike Leavitt (R) that prohibits further wilderness reviews.

The suit says six million acres of BLM-managed land in Utah are at stake. "Secretarial Order 3310 changes land management for at least an estimated 6 million acres of public land in Utah, which have already been inventoried and identified as having wilderness characteristics," it says.

Uintah County's McKee said the 6 million-acre impact assertion was inserted in the lawsuit because the administration is using the same definition of wild lands as environmentalists' used in a Red Rock 6 million-acre wilderness recommendation. However, BLM would have to conduct a public planning review before it formally designated any wild lands.

In the end McKee argued that the lands that may be involved in the Secretarial Order don't need to be reviewed again because they were already studied in BLM's resource management plans. "What a waste of taxpayers' money to do it again," he said. "They didn't like the result of the first time so we have to do it all over."

The Southern Utah Wilderness Alliance (SUWA) praised Salazar's order. "There is much to like about Interior's policy," said the alliance in a statement. "It gives wilderness a rightful place as an equal among the range of other resources BLM must manage and pro-

tect, and it's a critical first step towards ensuring the permanent protection of the last remaining wild lands in the West." However, SUWA worries that the order allows BLM to balance wild-land designation against development, exposing the lands to political pressure.

The wild lands policy of course applies to all states, not just to Utah. But the State of Utah has been in the forefront in contesting federal wilderness policy for the last decade.

Even if the House and Senate do allow the program to continue in the remaining six months of fiscal 2011, western Republicans promise to try to block the program in fiscal 2012.

Rep. Mike Simpson (R-Idaho), chief architect of the provision blocking the program in fiscal 2011, warned Secretary of Interior Ken Salazar at a March 8 hearing, "Only Congress has the authority to designate wilderness, and I can guarantee you that any subcommittee bill this year will include a funding prohibition relating to the wild lands policy, whether it is included in the underlying bill or added on the floor with an amendment."

In other words the fiscal 2012 bill is at risk also. Simpson chairs the House subcommittee on Interior appropriations.

House, Senate slow NPS air tour legislation to a walk

Although the House and Senate got off to a fast start this year on legislation to substantially revise national park air tour policy, things have now ground to a halt. As usual.

Recognizing the ongoing impasse, the House Transportation Committee March 15 approved interim legislation (HR 1086) to extend the existing Federal Aviation Administration (FAA) policy through the end of May. That would supposedly give the House and Senate time to complete comprehensive new policy legislation that will govern FAA for the next four years.

HR 1086 is either the 17th or 18th (depending on who is counting) "temporary" extension of old FAA policy in the last four years. While the parks air tour policy is a point of contention between the House and Senate, the larger disputes have been over airline unionization.

But at least one key House member, House Aviation Subcommittee Chairman Tom Petri (R-Wis.), is optimistic. Of HR 1086 he said recently, "This extension will keep our aviation programs funded through the end of May, and I have renewed confidence that, with the Senate having already passed its bill and our reauthorization headed to the floor in the next couple weeks, this should be our final extension." The bill is expected to reach the House floor shortly.

In the four-year authorization bills the Democratic Senate and the Republican House Transportation Committee are flying in different directions in setting new air tour policy above national parks.

The Senate approved legislation (S 223) February 17 that would in general tighten regulations governing overflights. Among other things S 223 would address a dispute over the division of labor between the Federal Aviation Administration and the Park Service by describing each agency's responsibilities.

In contrast the House Transportation Committee approved legislation (HR 658) February 16 that would in general favor air tour operators. HR 658 would exempt parks with 50 or fewer air tours per year from preparation of an air tour management plan. It would also allow the FAA and NPS to develop "voluntary agreements" with air tour operators to allow overflights without a management plan.

Both sets of legislation are designed to revise existing law governing air tours. Even though Congress wrote a major overflight law in 2000 requiring air tour management plans in national parks, no plans have been written. That impasse is allegedly caused in part by differences of opinion between the FAA and the Park Service (FAA tends to work

for the air tour operators, NPS works for the parks).

The National Parks Air Tour Management Act of 2000 (PL 106-181 April 5, 2000) was supposed to guide the FAA and NPS in coping with ever-larger numbers of air tours over the national parks, and in preventing accidents. FAA says it has received applications to fly over more than 100 national parks.

The Congressional disagreements over air tour operations are being fought out in broader legislation that would reauthorize FAA operations. The House and Senate have been unable to reach an accord on FAA legislation for the last two Congresses because of fights over issues not directly related to the national parks, such as unionization of FedEx workers and additional slots and flights out of Washington D.C.'s Reagan National Airport.

The Senate overflight provision, drafted by Sen. Ron Wyden (D-Ore.), would address the old problem of the division of labor between FAA and NPS. The provision in the Senate bill essentially says FAA is responsible for controlling airspace over the country and the Park Service is responsible for protecting the parks, giving NPS more muscle in disputes with FAA.

Wyden also included language in his provision that would allow Crater Lake National Park to reject an application for air tours over the park until an air tour management plan was written. And it's highly unlikely than an air tour plan will be written anytime soon.

The Senate also included in its bill a provision that would assess fees on air tour operators large enough to pay for air tour management plans. The amendment was sponsored by Sen. Tom Coburn (R-Okla.), frequently a critic of initiatives to expand the National Park Service. His amendment simply gives the Interior Department authority to assess a fee, with the amount to be determined.

The House provision, in a bill introduced by House Transportation Committee Chairman John Mica (R-Fla.), would allow parks to negotiate "voluntary

agreements" directly with air tour operators now in business. The voluntary agreements would have to meet the approval of FAA and NPS.

Says the bill, "A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system. . ."

Rec interests uneasy about FS plan rule's 'sustainability'

While the outdoor recreation community has in general accepted the Obama administration is committed to recreation in a draft Forest Service planning rule, some individual advocates are uneasy.

Their concern is an oft-repeated reference in the draft rule to "sustainable" recreation. The inference is that recreational activities should not damage the environment, and thus be unsustainable. And that recreation should pay for itself.

Said Chris Horgan, executive director of the Stewards of the Sequoia, "In the face of overwhelming public concerns about recreation being excluded from the Forest Planning Rule, the Forest Service has included recreation, however, they have decided to qualify it, by adding the vague and indefinable term of 'sustainable' to recreation. This was not the intention of the public and is a grave concern to the recreation community."

Horgan, whose association promotes motorized and nonmotorized recreation on public lands, worries about the environmental implication. "It appears that the Forest Service is attempting to place additional environmental considerations onto recreation by adding the requirement of being 'sustainable'," he said, "perhaps in order to appease the extreme environmental groups who seem to have been heavily involved in the drafting of the planning rule."

A broader Coalition for Recreation in the National Forests, in an analysis of the draft February 10 rule, lists first among its concerns an "overemphasis of preservation above Multiple Use" because of the sustainability language. The coalition represents some 80 organizations that in turn represent a broad spectrum of recreation businesses.

The Forest Service published the long-awaited draft planning rule February 10. It is designed to guide individual forests in setting policies over the next 15 years. At the release of the draft rule Secretary of Agriculture Tom Vilsack repeatedly emphasized the role of recreation in national forests, perhaps in response to complaints from the recreation community.

In guidance the Forest Service published last year before the draft rule was completed it referred to "fiscally sustainable" recreation. That irritated more than 40 member of Congress, who wrote the Forest Service in November, "(W)e have concerns that the Draft Recreation Approach (DRA) posted online includes terms we think are vague and ambiguous, which could lead to reduced recreational opportunities on USFS lands. For example, the DRA specifies recreation must be '(environmentally and fiscally) sustainable.'"

The House members were led by Republican Reps. Kevin McCarthy (Calif.) and Rob Bishop (Utah).

While the draft rule does not repeat the "fiscally" sustainable reference, it does repeatedly refer to sustainable recreation. It defines sustainable recreation as "the set of recreational opportunities, uses and access that, individually and combined, are ecologically, economically, and socially sustainable, allowing the responsible official to offer recreation opportunities now and into the future. Recreational opportunities could include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air."

When the draft rule was published environmentalists as a first take praised the definition. Said The Wilderness So-

ciety's Anne Merwin, "They have taken a major step forward by requiring that all forest plans incorporate sustainable recreation planning on a par with other uses. This raises recreation - which touches more acres and more people than any other use on the forest - to the level of priority that it deserves."

The Forest Service's proposed draft is just a draft and will surely be revised before it becomes a formal rule. The Forest Service goal is to publish a final rule by the end of the year.

As required by the National Forest Management Act of 1976 (NFMA) the Forest Service has since 1976 prepared more than 100 forest plans to guide land uses in 155 national forests and 20 grasslands (some plans cover more than one forest and/or grassland.)

Under NFMA forest plans are to be revised every 15 years. However, the agency said dozens of the existing plans are overdue for revision because they should have been rewritten between 1998 and now.

The Bush administration struck out twice in trying to write a master-planning rule. On January 5, 2005, it completed a first set of regulations, without preparing an EIS. And on April 21, 2008, it tried again with a perfunctory EIS. Two federal judges held separately that the Forest Service failed to adequately evaluate the environmental impacts of the rules.

The proposed rule and information about public comments are available at www.fs.usda.gov/planningrule. The service held a national forum March 10 as part of its solicitation of public input.

Concessioners seek larger role in parks, on their dime

National park concessioners presented to the powers that be in Washington last month a sweeping proposal that would have concessioners play a more active role in improving the national park experience for visitors.

The National Park Hospitality As-

sociation (NPHA) briefed NPS leaders and Congressmen about, among other things, proposals for concessioner-built facilities, concessioner-improved campgrounds and visitation incentives.

For most projects the concessioners would pick up the tab, said Derrick Crandall, counselor to NPHA. "None of the facilities would be paid with public funds," he said. And the program calls for greater investments in maintenance projects, in return for longer contracts.

The concessioners, in Washington for an annual gathering, presented their Better Visitor Service Initiative last month to NPS Director Jon Jarvis and NPS Deputy Director Peggy O'Dell, as well as to four key House members – House Natural Resources Committee Chairman Doc Hastings (R-Wash.), House Interior Appropriations subcommittee chairman Mike Simpson (R-Idaho), House subcommittee on Parks Chairman Rob Bishop (R-Utah) and the ranking Democrat on the Parks subcommittee Raúl Grijalva (Ariz.)

While NPHA has not fully briefed Jarvis and O'Dell on the initiative, the Park Service is reviewing it. "The word I get is we're always looking for ways to improve visitor services," said Jeffery Olson, a spokesman for NPS, after consulting with the business services office of NPS. "We will give it a thoughtful review." NPHA would like NPS to complete the review by the end of August.

Park Service concessioners for the last decade have pressured the Park Service, the Bush administration and the Obama administration to increase visitation to the national parks. Although the total number of visitors to the parks has been roughly stable over that period (with a modest up-tick the last two years during the recession), as a percentage of the total population visitation has decreased.

NPHA's Crandall said the concessioners had only a brief meeting with Jarvis and O'Dell. But, he said, "We expect to have more formal discussions with them later this year but a meeting has not been set. We also will take the

proposals to regional directors."

The Better Visitor Service Initiative consists of five parts:

BUILD NEW FACILITIES: Concessioners would pay for quality facilities on the order of Ahwahnee Hotel in Yosemite National Park and El Tovar Hotel in Grand Canyon. "Improvements might involve new overnight accommodations, new food serve facilities, improve transportation and more," says NPHA. Crandall said Congressional approval may not be needed. However, House and Senate members do like to become involved in such projects.

REVITALIZE CAMPGROUNDS: Concessioners would pay for maintenance projects as well as take over the operation of some campgrounds, freeing NPS staff for other work. However, federal agencies tend to resist contracting out to private industry. Crandall said concessioners have managed campgrounds in Grand Teton National Park and Redwood National Park with good results.

CONCESSIONER INVESTMENT: Concessioners would prefer 20-year contracts, rather than 10 years, as is now the practice. NPS has the authority to provide longer contracts. The longer contracts, perhaps combined with property tax credits for concessioner investments, could provide a new source of revenue to attack the maintenance backlog in the parks.

NEW ENTRANCE FEE FORMULA: Concessioners would have NPS give different groups a break on fees. "Options of a waiver of fees for those demonstrating economic need, increasing the senior age level, modification of the seven-day entrance fee provision, increased use of technology parallel to toll collection on highways, expansion of annual pass ownership, encouragement of volunteerism at non-fee parks to earn entrance passes, promotion of annual and international visitor passes and more should be considered," says an NPHA white paper.

VISITOR OUTREACH: Among other things concessioners might pay for "advertising, fee-free periods and NPS communications" to spark an increase in

visitation, says the white paper.

Top court lets stand circuit ruling on big Calif. landfill

The U.S. Supreme Court declined March 28 to consider a circuit court decision that has delayed significantly approval of a large landfill within two miles of Joshua Tree National Park in California.

The Supreme Court action effectively lets stands a Nov. 10, 2009, decision of the Ninth U.S. Circuit Court of Appeals. It held that the Bureau of Land Management (BLM) had prepared an inadequate EIS in support of the project proposed by Kaiser Ventures LLC.

The Interior Department must now decide what to do next. It can take the time to write a new EIS in the hopes that it will meet the Ninth Circuit's demand that BLM consider a wider range of alternatives. Or it could let the proposal die. Of importance the Interior Department did not appeal the Ninth Circuit decision to the Supreme Court.

The Eagle Mountain landfill would be the largest in the nation. It would accept 200,000 tons of trash from the Los Angeles area each day for 117 years. In a proposed land exchange that is part of the deal Kaiser would receive 3,481 acres of BLM land and permanent rights-of-way to the landfill. In exchange the company would transfer to BLM 2,846 acres of private land that contain critical habitat for the desert tortoise. The landfill itself would cover 4,654 acres.

In the two-to-one Ninth Circuit decision Judge Harry Pregerson ruled for the majority that BLM's EIS reads like a promotion for the project and fails to analyze enough alternatives. "The BLM adopted Kaiser's interests as its own to craft a purpose and need statement so narrowly drawn as to foreordain approval of the land exchange," he said. "As a result of this unreasonably narrow purpose and need statement, the BLM necessarily considered an unreasonably narrow range of alternatives."

But in a 49-page dissent Senior

Circuit Judge Stephen S. Trott held that BLM's environmental analysis and decision to approve the exchange were adequate. "Our well-meaning environmental laws have unintentionally made such an endeavor (a landfill) a fool's errand," said Trott. "This case is yet another example of how daunting - if not impossible - such an adventure can be."

The lead plaintiff in the case, the National Parks Conservation Association (NPCA), criticized the proposed landfill. David Lamfrom, California Desert Program Manager for NPCA, said, "Depositing 20,000 tons of trash per day next to Joshua Tree National Park will hurt the air quality, water quality, scenery, and natural quiet of the park and its southern gateway communities. It would also increase the population of ravens - a major predator of the federally threatened desert tortoise."

Notes

NPS notice: No-fee week in April.

The Park Service is reminding potential visitors that no units will charge entrance fees during National Park Week, April 16-24. In January the Obama administration announced it would hold 17 no-fee days this year. NPS Director Jon Jarvis last month, in emphasizing the no-fee week, endorsed the health benefits of visiting national parks. "National parks have always been great places to go on vacation, have fun, and learn something, but for millions of Americans national parks are also a daily part of a healthy lifestyle," he said. "If you've never thought of your national parks that way, we'd like to invite you to come out to see how parks can help you meet your fitness goals. Getting outside and moving is the first step." During National Park Week the parks will also provide special programs. The 2011 fee-free dates began with Martin Luther King, Jr. Day (January 15-17) and include National Park Week (April 16-24), the first day of summer (June 21), National Public Lands Day (September 24) and the weekend of Veterans Day (November 11-13). Some 147 of the 394 parks charge entrance fees. More info at: <http://www.hnps.gov/npweek>. Many national park concessioners will offer discounts on fee-free days.

GOP makes exception of Everglades.

The House Transportation Committee March 16 said it will make an exception of the Everglades ecosystem in its demand for decreased spending on water resource projects in fiscal year 2012. In backing President Obama's proposal to spend six percent less for water resource projects, a decrease of \$298 million, the committee first criticized "aquatic ecosystem restoration" projects because they don't generate enough money for the economy. Then in an annual report to the House Budget Committee the Transportation panel said, "Two aquatic ecosystem restoration projects are unique in their size and complexity and are an exception to the limitation on funding this class of project." The two exceptions are the Everglades and coastal Louisiana, which is recovering from Hurricane Katrina. The committee said those two projects do provide economic benefits.

Alaska back under roadless rule.

The State of Alaska has not indicated yet if it will appeal a federal judge's decision that ordered the Tongass National Forest to be included in a national rule protecting national forest roadless areas. The Bush administration in 2003 exempted the 16.8 million-acre Tongass from a 2001 Clinton administration rule barring most road construction in 58 million acres of national forest outside Alaska. The State of Alaska had intervened in the lawsuit, arguing that inclusion of the Tongass in the roadless rule would damage the state's economy. But Gov. Sean Parnell's (R) office has not responded this week to repeated queries from us as to whether the state will appeal to the Ninth U.S. Circuit Court of Appeals. In his decision of March 4 U.S. District Court Judge John W. Sedwick in San Francisco rejected the Forest Service's three arguments for exempting the Tongass from the rule: (1) the 2001 rule would cause economic harm, (2) existing land use plans provide adequate protection and (3) the 2001 rule creates legal uncertainty. The decision is cited as *Organized Village of Kake v. U.S. Department of Agriculture 1:09-cv-00023-JWS of March 4*. The decision adds another layer of legal uncertainty to the 2001 roadless area rule. Two other

courts have issued competing rulings on its legality. On June 16, 2009, U.S. District Court Judge Clarence Brimmer in Wyoming held the Clinton rule illegal, but the Ninth U.S. Circuit Court of Appeals had earlier held the rule legal. The ball right now is in the hands of the Tenth U.S. Circuit Court of Appeals, which is reviewing Brimmer's decision. Sedwick's decision addresses just the Tongass situation.

Dems seek Buffalo Soldiers honor.

Twenty-three House Democrats and the two Democratic senators from California introduced legislation (HR 1022, S 544) last month that calls for a study of ways to honor the all-black Buffalo Soldiers. One possible honor would be a trail from San Francisco to Sequoia National Park and/or Yosemite National Park. That was the route the Buffalo Soldiers, the Army's first black infantry and cavalry units, followed in the early Twentieth Century on their way to patrol the parks. Beginning in 1903 the Buffalo Soldiers served as what some call the nation's first park rangers. Rep. Jackie Speier (D-Calif.) is the lead sponsor of the House bill and Sen. Dianne Feinstein (D-Calif.) is the lead sponsor of the Senate bill.

Colo. may merge parks, wildlife.

Colorado Gov. John Hickenlooper (D) asked the state legislature last month to authorize the merger of the Colorado Division of Parks and Outdoor Recreation with the Colorado Division of Wildlife. The new division would perform the same tasks but with fewer people and with combined resources in order to eliminate duplication of effort. Although Hickenlooper didn't have an estimate of the cost savings, he did say about 25 positions would be eliminated through attrition. The new division would continue to be part of the Department of Natural Resources.

San Francisco streetcar to parks?

The Park Service last month published a draft EIS that backs the extension of a San Francisco streetcar line from Fisherman's Wharf to two units of the National Park System — the San Francisco Maritime National Historical Park and the Fort Mason Center. The extension would extend .85 miles and include eight

or more station platforms. The line that would be extended carries more than 20,000 passengers per day. The proposal stems from a Congressionally-mandated study. The draft EIS did not include an estimated total cost of the project, but one phase that would upgrade the exist-

ing Fort Mason tunnel would cost more than \$11 million. However, the project is eligible for \$5 million in San Francisco transportation bond money. More information is available at <http://park-planning.nps.gov/StreetcarExtension>.

Boxscore of Legislation

LEGISLATION

STATUS

COMMENT

Appropriations 2011 CR Omnibus

HR 1 (Rogers)

House approved February 19. Senate appropriators proposed alternative March 4.

House would reduce spending for most outdoor programs, particularly LWCF. Senate would not. Bill would replace four following bills.

Appropriations 2011 (Interior)

No bill number yet
(See first item)

House subcommittee approved July 22, 2010.

Would roughly maintain FY 2010 spending with some increase for LWCF.

Appropriations fiscal 2011 (Energy and water)

No House bill yet
S 3635 (Dorgan)
(See first item)

House subcommittee approved July 15, 2010., Senate committee approved July 22, 2010.

Would roughly maintain FY 2010 spending.

Appropriations fiscal 2011 (Agriculture)

No bill number yet
S 3606 (Kohl)
(See first item)

House subcommittee approved June 30, 2010. Senate committee approved July 15, 2010.

Would reduce spending somewhat compared to FY 2010.

Appropriations fiscal 2011 (Transportation)

HR 5850 (Olver)
S 3644 (Murray)
(See first item)

House approved July 29. Senate committee approved July 22, 2010.

House would increase spending somewhat, Senate would maintain status quo.

Appropriations fiscal 2012

No bill yet

Administration introduced February 14.

Would reduce spending overall but give LWCF full funding of \$900M.

Urban parks

HR 709 (Sires)

Sires introduced February 15.

Would provide \$450 million per year to rehabilitate urban parks.

National monuments

HR 302 (Foxx)
HR 758 (Herger)
S 407 (Crapo)

Foxx introduced January 18. Herger and Crapo introduced February 17.

Would require state approval of any national monument under Antiquities Act. Herger, Crapo would require Hill approval within two years.

National park overflights

HR 658 (Mica)
S 223 (Rockefeller)

House panel approved Feb. 16. Senate approved February 17,

Mica would revise overflight policy with Senate tilting more toward protection.

Ski area

HR 765 (Bishop)
S 382 (Udall)

Bishop introduced February 17. Udall introduced February 17.

Would have FS allow year-round rec activities in ski resorts.

California Desert monument

S 138 (Feinstein)

Feinstein introduced January 25.

Would designate a Mojave National Monument and protect 1.6 million acres.

NPS air tour policy

HR 658 (Mica)
S 223 (Rockefeller)

House committee approved Feb. 16. Senate approved February 17.

Both would revise NPS air tour policy, but bills vary greatly.

Glacier park protection

S 233 (Baucus)

Baucus introduced January 31.

Would withdraw from mining 300,000 acres of adjacent national forest.

Delaware national park

HR 624 (Carney)
S 323 (Carper)

Both introduced February 10.

Would designate a first national park in the first State of Delaware.