

# Federal Parks & Recreation

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## Administration urges Hill to move NPS Centennial bill

The Bush administration is ratcheting up the pressure on Congress to move legislation to provide \$2 billion to upgrade the National Park System as it approaches its 100th Anniversary in 2016, *FPR* has learned.

The effort follows hard on the heels of an NPS Superintendents Summit July 16-17 that focused in part on the Centennial.

Several sources tell *FPR* that the White House, the Office of Management and Budget (OMB), and the Interior Department are asking Congress to move a Centennial Challenge bill (HR 3094, S 2817) that has stalled in the House Natural Resources Committee and the Senate Energy Committee.

"The administration has begun an all-out push to get a vote prior to the August recess (which is scheduled to begin August 8)," said one source close to the administration. "They are trying to clear up the remaining offset issues. OMB is reportedly offering some non-energy offsets." Offsets based on energy development have not gone over well with either Congressional Democrats or Republicans.

"I'm hearing that too," said Bill Wade, executive council chair of the Coalition of National Park Service Retirees.

The House Natural Resources Committee approved a Centennial Challenge bill (HR 3094) May 7, but failed to identify offsets to pay the \$100 million per year federal share of centennial grants. In the Senate the lead sponsor of a counterpart bill (S 2817), Sen. Ken Salazar (D-Colo.), has been tied up with climate change and energy legislation.

On July 29 the House committee did take a major step toward House action by filing a committee report. However, that report does not identify offsets.

At the NPS Superintendents Summit in Utah Secretary of Interior Dirk Kempthorne's prepared remarks sounded an optimistic note. "Our friends and partners are ready to go and I am confident Congress is getting ready to go as well," he said.

But Wade, looking at the offset problems and the nasty relationship between Democrats and Republicans on the minutest of issues, said, "It's questionable if they will get a bill this year."

Bill or no bill the Superintendents Summit focused on expanded partnership programs, said Joan Anzelmo, conference chair and superintendent of Colorado National Monument. "We did spend a lot of time talking with our partners about what we were doing well and not doing well," said Anzelmo.

A twin focus of the 450 or so attendees was NPS Director Mary Bomar's long-standing charge to connect more closely with the American people. Said Anzelmo, "We were following up on the director's agenda that she made when she took over on how best to connect with the American people and remain current."

Anzelmo said the conference did not focus as much on protecting the resource as using it because of limited time and a focus on the director's agenda. "It's difficult to concentrate in depth on everything," she said. "We were concentrating on visitors."

At the summit Kempthorne alerted the conferees to looming changes in NPS personnel over the next few years. "More than 35 percent of National Park Service employees will be eligible to retire in the next four years," he said. "The silver lining of losing these seasoned professionals is the opportunity to train up a new generation of leaders."

As to the Park Service Centennial Challenge bill, the House Natural Re-

sources Committee approved HR 3094 with no member voting no. However, committee Democrats and Republicans are not in accord on how to provide \$100 million per year in guaranteed money - outside the appropriations process - to finance matching partnership grants.

Supporters of the legislation in Congress and among interest groups have recommended a broad array of offsets and, in the end, they expect a package of items will be needed. Most proposals have some built-in deficiency.

The administration initially said it had done its part by submitting an array of recommendations to Congress, such as royalties from new energy development in Alaska and other energy initiatives. But those proposals offend Democrats and Republicans.

Supporters are now evaluating a possible offset based on the sale of an America The Beautiful Passport in Europe. The proponents would peg the passport at 80 Euros and apply the difference - about \$45 - to the Centennial Challenge program.

The passports would be tailored to different languages and provide new perquisites, such as access to translated website information.

House Natural Resources Committee Democrats first considered unspecified fees on users of federal lands. That did not go over well with commodity users of the public lands.

Other recommendations considered by the committee include a two percent levy on the state share of federal oil and gas leasing royalties, cancellation of an ultra-deepwater offshore oil and gas research program and a levy on each application for permit to drill for oil and gas on federal land. Those are the proposals that offended western Congressmen.

Committee Republicans (and the Bush administration) have also recommended authorization of oil and gas drilling on the coastal plain of the Arctic National Wildlife Refuge, with some royalties going to the Centennial

Challenge. And the committee Republicans have suggested allocation of revenues from timber salvage sales. Both of those proposals are unacceptable to committee Democrats.

Sen. Ken Salazar (D-Colo.) is also searching for revenues for his counterpart Senate bill, S 2817. Unlike the House committee he wrote into his bill two offsets - \$90 million from Outer Continental Shelf oil and gas revenues that exceed projections and \$10 million from special postage stamps. The Senate Energy Committee has not yet scheduled a hearing on S 2817.

The Bush administration's Centennial Challenge proposal would have Congress guarantee \$100 million per year to be matched by \$100 million per year in partnership grants. For the third leg of the stool the administration has proposed a \$100 million per year increase in standard appropriations for Park Service operations.

Both HR 3904 and the Salazar bill would broadly define partnerships that could participate in projects, set limits on how much money could be allocated to specific activities such as capital improvements (with a 30 percent cap on construction), authorize multi-park and national projects, encourage recreation use in parks within limits, authorize use of the money for land acquisition, allow concessioners to serve as partners, and insure that trails are eligible for Challenge money.

However, the committee bill doesn't specifically require matching grants. Both the administration and potential partners have complained that raises the possibility that partners will offer matches that are not met one-to-one by the federal government.

### **Rec working group will face money question, others**

At its inaugural meeting July 14 an unofficial park and recreation advisory group ran headlong into the problem that has bedeviled outdoor programs for decades - a lack of money.

The Outdoor Resources Review Group (ORRG) was presented with a scoping paper prepared by Resources for the Future Senior Fellow Margaret Walls. It outlined a general decline in funding for park and rec programs over the last 20 years (except for the Park Service) and asked the ORRG to ponder a dozen basic questions, such as:

"How are LWCF (Land and Water Conservation Fund) monies being spent and how has that changed since the mid-1980s?

"What has happened to federal funding of national parks and other public lands and is funding keeping up with demand?

"Is there a way to achieve better coordination across federal agencies and between the federal government and states to more effectively and efficiently deliver recreation supply services?"

Meanwhile, some of the 18 members of the advisory group are growing antsy about a schedule that calls for delivery of ORRG recommendations next May to the new administration and Congress.

Said group member Derrick Crandall, president of the American Recreation Coalition, "One thing I'll be pushing for is front-loading recommendations for November so we can have something in place when the next administration is putting its transition team together."

Henry Diamond, a partner with the law firm Beveridge & Diamond, and Patrick Noonan, chairman emeritus of The Conservation Fund, are leading the ORRG. After the July 14 meeting Diamond and Noonan called for a second meeting on Monday, September 29 in Washington, D.C., followed by three other meetings in November, January and March.

At the July meeting Honorary Co-chairs Sen. Jeff Bingaman (D-N.M.) and Lamar Alexander (R-Tenn.) opened the session. The group has no formal blessing from Congress, but members are considering the option of a formal, follow-up Congressional commission.

At the meeting John Berry, former

assistant secretary of Interior for Policy in the Clinton administration, presented an overview of federal issues. Erik Kulleseid, deputy commissioner for Parks and Recreation in New York State, presented an overview of state issues. And Joseph Wynns, director of the Department of Parks and Recreation, Indianapolis, Ind., presented an overview of metropolitan issues.

The goal of the working group is straightforward. As Diamond told us last month, "(T)o call the attention of the next Administration to the importance of parks, outdoor recreation and open space, and to assess the need for a new national commission."

In her scoping paper Walls highlighted the changes that have taken place in American recreation since the last national outdoor commission in 1987, the President's Commission on Americans Outdoors.

Of urban areas she noted, "City parks in the United States are uneven in quality both within and across cities. Some cities have large, landmark parks that provide a range of outdoor recreation opportunities, while others have parks with deteriorating facilities. Funding in some cities is strong and in others has declined over time."

She also noted a large increase in land trusts, with the number doubling over the last decade to 1,667 in 2005. As impressive, the land the trusts are protecting has doubled in five years from 6 million acres in 2000 to 12 million acres in 2005, Walls said.

Climate change is the big sleeper issue. Walls noted that Congress is expected to pass a mammoth bill in the next two-to-three years to address the problem. That could provide big money for park and rec programs.

For instance, the Senate took up a climate change bill (S 3036) in early June that would provide billions of dollars per year to conservation programs, including a guaranteed \$900 million per year for LWCF. The bill ultimately failed but provides a marker for next year.

Walls also reviewed the emerging concerns of society about health and exercise. "Some studies have established a link, though a somewhat tenuous one, between land development patterns and obesity," said the scoping paper. "In particular, sprawling suburban development patterns without sidewalks, parks, and communal open space may be contributing to obesity and poor health."

Finally, Walls didn't mention the possible financial assistance presented by a flood of energy development legislation that has emerged in the last month. Outer Continental Shelf oil drilling already finances the Land and Water Conservation Fund and the Historic Preservation Fund. And Alexander has spoken in the past about a need to link royalties from that development to conservation programs.

## **Park, rec would mostly disappear in Bush roads proposal**

The Bush administration proposed a long-term surface transportation policy July 29 that would largely eliminate direct federal spending on park and recreation programs, except for federal lands roads.

The proposal from Secretary of Transportation Mary Peters would delegate most responsibility for non-federal highway spending to states. In so doing she would eliminate the gasoline tax for nonfederal programs, the foundation for the programs for the last 50 years.

House Transportation Committee Chairman James Oberstar (D-Minn.) immediately dismissed the proposal as irrelevant. He will probably take the lead in Congress next year in writing a multi-year surface transportation law. That new law would replace the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which is scheduled to expire on Sept. 30, 2009.

"In putting forth this proposal as it enters its final months in office, the Administration is attempting to

place its dead hand on America's transportation future," Oberstar said. "This Administration leaves town in January. Meanwhile, the Committee on Transportation and Infrastructure will be hard at work to bring forth a new, sustainable vision to move our nation forward."

Substantively, Oberstar said, "The Administration's proposal fails to provide a sustainable system of financing. It fails to provide an intermodal vision linking highways, waterways, railways, airways, and public transportation. It fails to provide adequate answers to congestion in our cities, or better ways to link rural America to the rest of the world."

Recreation interests criticized the administration proposal. Americans for Responsible Recreational Access (ARRA) Executive Director Larry Smith objected to elimination of a Recreational Trails Program (RTP). "The DOT's proposal appears to support eliminating the RTP when we should be looking for ways to expand the successful program," he said.

Smith said that under SAFETEA-LU the program pays for itself from taxes on gasoline purchased for off-highway vehicles (OHVs), in keeping with the administration's user pays philosophy. "Every American who purchases gasoline pays the gas tax," said Smith. "The overwhelming majority of the revenue generated by those taxes is used to fund the transportation system as is appropriate. It is also appropriate that, at a minimum, a significant portion of gas taxes paid by OHV recreationists on fuel that will be used off-highway should be apportioned to build and maintain trails through the RTP."

Peters laid out the administration proposal for surface transportation in a proposal called *Refocus. Reform. Renew.* (It is available at <http://www.fightgridlocknow.gov>.)

The proposal would retain the gasoline tax to pay most of the freight for federal programs, such as federal land highways, but replace state and local funding with a number of initia-

tives, such as toll roads, fees for vehicle miles driven and partnerships.

Substantively, the proposal would replace 102 "silo" programs such as transportation enhancements, RTP, scenic byways, Safe Routes to School, etc. with a half-dozen broad initiatives. Initiatives such as Metro Mobility and Mobility Enhancement would allocate money primarily based on the miles of roads in a jurisdiction and miles driven.

The 80-page *Refocus. Reform. Renew.* does not mention recreation and only mentions parks in the context of national park roads. The report does mention transportation enhancements once, to call for its elimination. The program provides over \$500 million per year to activities such as bike trails.

"This clause references the fact that the (Metro Mobility) program would prohibit Federal funding for 'transportation enhancement' activities eligible under previous Federal programs that are not primarily oriented toward mobility safety, or environmental mitigation (e.g., the construction of transportation museums)," said the administration report.

The federal lands proposal would consolidate existing federal lands allocations - park roads, public lands roads, refuge roads, Indian roads, and transit in the parks - into a broad new program that would also include Department of Defense and Corps of Engineers roads. The proposal would authorize five demonstration projects for the construction with non-federal partners of federal roads and five demonstration projects for "innovative pricing" on with non-federal partners of federal lands roads.

## **Congress approves rec vessel exemption from discharge regs**

President Bush signed into law July 29 (PL 110-288) legislation (S 2766) that would circumvent an impending federal order that all recreational boats obtain water discharge permits, beginning October 1.

The legislation is designed to overcome a court order that requires a permit for 13 million recreation vessels in the country this fall. The bill says simply that no permit is needed for the discharge of gray water, bilge water, engine oil, etc, "if the discharge is from a recreational vessel."

Said the lead sponsor of a House version of a bill (HR 5949), Steven C. LaTourette (R-Ohio), "The House passage today will prevent 16 million recreational boaters from being subject to federal fines of up to \$32,500. And let me repeat that, \$32,500 a day for a guy who owns a 19-foot Starcraft that has an incidental discharge in Lake Erie."

The House approved the bill July 22 by a voice vote and the Senate approved it the same day by unanimous consent.

The estimate of the number of boaters affected seems to climb each day. House members began the debate July 22 by talking of 13 million vessels. Then they referred to 16 million vessels and one Congressman, Rep. Ron Klein (D-Fla.), upped the number to 73 million.

No matter what the number, the National Marine Manufacturers Association (NMMA) was enthusiastic. "This is an historic victory for our 1,700 members and for boaters across the nation who just love being out on the water unencumbered by unnecessary government red tape and significant legal jeopardy," said Scott Gudes, NMMA vice president of government relations. "Congress has acted decisively to keep boating fun, safe and simple."

The U.S. District Court in Northern California issued the permit mandate in a Sept. 18, 2006, decision. It told EPA that under the Clean Water Act (CWA) the agency must require a permit for the discharge of water for all vessels. EPA had issued regulations in May 1973 that exempted "discharges incidental to the normal operation of a vessel." The court vacated that exemption.

EPA subsequently on June 21, 2007,

notified the public that it would require permits after September 2008 and would develop a "permitting framework," i.e. identify the price of permits and a method for 13 million owners of recreational boats to obtain permits.

Fifteen sport fishing and environmental groups brought the original lawsuit against EPA's 1973 regulation because they were concerned about the spread of non-native species via wastewater. They argued that the CWA does not provide an exemption from the requirement.

Judge Susan Illston agreed. She also rejected EPA's argument that permitting 13 million recreation vessels would be burdensome. "The Court is confident, however, that EPA has both the expertise and discretion to find an adequate solution to the problem at hand," she said.

Recreational boaters countered that the judge erroneously wrapped recreational vehicles into a regulation targeted at larger ships that expel ballast water.

Sens. Bill Nelson (D-Fla.) and Barbara Boxer (D-Calif.) were the lead sponsors of the Senate bill.

## **Coalition seeks billions for bike, hike transportation**

Trails advocates have mounted a campaign to allocate \$50 million to communities across the country to expand opportunities for non-motorized transportation, i.e. walking and biking.

The Campaign for Active Transportation (made up of rail-trail, bicycle and other groups) is making its pitch just as the current surface transportation law is running short of money.

In fact the House July 23 approved an \$8 million infusion from the U.S. Treasury to provide full funding in fiscal year 2009 for the transportation law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.) The law is normally paid for from gasoline taxes

but reduced driving around the country has shrunk the amount of money available to carry out SAFETEA-LU.

The Campaign for Active Transportation is aware of the problems facing SAFETEA-LU, but they say increased use of trails and bicycle lanes can improve communities. Campaign officials did not return our calls.

The campaign hopes to build on an existing program in SAFETEA-LU called the Nonmotorized Transportation Pilot Program (Section 1807.) It allocated \$25 million each to four cities, spread out over four years, to promote bicycling and walking. Those cities are Columbia, Mo.; Marin County, Calif.; Minneapolis, Minn.; and Sheboygan County, Wis.

The campaign hopes to increase the allocation to \$50 million each for at least 40 communities, at a price tag of \$2 billion or more.

The campaign says the money should not come out of the transportation enhancements (TE) program in SAFETEA-LU that receives about \$600 million per year for a dozen kinds of projects, including trail construction and acquisition.

"Rather, we envision a new program that supplements TE's focus on projects with more comprehensive opportunities to develop active transportation systems to deliver mode shift," said a Question and Answer analysis from Rails-to-Trails Conservancy.

The campaign is still getting organized. The campaign is urging communities to compose "case statements," or work prospectuses. The campaign will then batch the case statements together and submit a national case statement to Congress.

SAFETEA-LU, which covers five fiscal years, is scheduled to expire on Sept. 30, 2009. The Senate Environment and Public Works (EPW) Committee and the Senate Transportation Committee are now laying the groundwork for writing a new surface transportation law next year.

The biggest hurdle - even more important that identifying program allocations - is finding money to finance the law. Congress put up \$286 billion for SAFETEA-LU in 2005 but Senate EPW Committee Chairman Barbara Boxer (D-Calif.) said last month "we now need \$586 billion bill just to maintain what we have now."

House and Senate committees have entertained a half-dozen major proposals to pay for the new law, in addition to gas taxes. GAO described in a new report last month these proposals for supplementing gas tax revenues for the Highway Trust Fund: charging fees for vehicle miles traveled (with a GPS in each car), fees on freight, congestion pricing, bonds, loan guarantees, revolving funds, and public-private partnerships. Those partnerships usually refer to privately-operated toll roads.

To make sure Congress has enough money to fully fund SAFETEA-LU in fiscal 2009 the House approved a bill (HR 6532) July 23 to allocate \$8 billion from the general fund. The vote was 387-to-23. Supporters say the transfer pays surface transportation back for a 1998 shift of \$8 billion out of the then-fat Highway Trust Fund to general appropriations.

Not all House members agreed. Rep. Floyd Flake (R-Ariz.) said Congress should follow his lead and approve a bill he introduced (HR 6472) that would rescind earmarks from SAFETEA-LU. "Now we have billions of dollars that have been unobligated, that have not yet been obligated," he said. "We should take that funding from those earmarks, from many of those 6,300 earmarks that have not been obligated, and apply it to this funding shortfall instead of robbing the general fund."

The full Senate has not yet acted to shift the \$8 billion from the general fund to SAFETEA-LU. However, the Senate Appropriations Committee July 9 approved the transfer as part of a fiscal 2009 Transportation appropriations bill (S 3261.) The money would insure surface transportation program get their full allocation of \$41.2 billion from SAFETEA-LU in fiscal 2009.

## House GOP offers NPS guns amendment to Minute Man bill

Apparently concerned that the Park Service would not follow through on a proposal to allow guns in the national parks, western Republicans are attempting to mandate such a policy legislatively.

To that end Rep. William T. Sali (R-Idaho) July 23 offered in the House Resources Committee an amendment to authorize concealed weapons in parks. He attempted to amend a bill (HR 5853) that would expand the boundary of the Minute Man National Historical Park in Massachusetts. The committee narrowly rejected the amendment in a 9-to-11 vote.

But Sali intends to push on. "He plans to continue to press that issue," said an aide to the Congressman. "It's very, very important to him and his constituents."

Supporters of the guns-in-the-parks policy such as the National Rifle Association (NRA) are growing increasingly concerned that the Park Service will not complete final regulations during the Bush administration's tenure. NPS initially published the proposed rule April 30.

The supporters fear that NPS will find ways to stall the policy change even though Secretary of Interior Dirk Kempthorne may support it. The NRA's concerns were heightened when the Park Service and the Fish and Wildlife Service July 9 extended a comment period until August 8 on a proposal to allow concealed weapons in national parks and refuges.

The chairman of the Senate and House subcommittees on the National Parks asked for the extension. Sen. Daniel K. Akaka (D-Hawaii) chairs the Senate panel and Rep. Raúl M. Grijalva (D-Ariz.) chairs the House subcommittee.

NRA immediately charged that Akaka and Grijalva are simply trying to defer the Bush administration proposal into the next administration.

So Sali offered the amendment to the Minute Man bill that his office said would require "that laws regarding the possession or use of a fire arm be governed by State and local governments. The amendment is designed to protect Second Amendment rights, which, as the U.S. Supreme Court held recently in *District of Columbia v. Heller*, guarantees Americans' their personal right to keep and bear arms."

Said Sali himself, "If a state or local government sees fit to impose similar restrictions, then so be it, but the National Park Service needs to stay out. The Park Service does many things well. Unfortunately the regulation of firearms is not one of them."

In April seven former NPS directors opposed the administration proposal, including George B. Hartzog Jr. (now deceased), Ronald H. Walker, Gary Everhardt, Russell E. Dickenson, James Ridenour, Roger G. Kennedy, Robert Stanton and Fran Mainella.

However, a majority of senators (51 of them) wrote Kempthorne late last year asking that concealed weapons be allowed in national parks and refuges.

Comment to: *Public Comments Processing, Attn: 1024-AD70; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.*

## Senate says no to BEACHES in jumbo bill; implications?

The Senate rejected July 28 legislation (S 1506) that would help states protect beaches. However, the bill may be revived quickly.

S 1506 is included in a jumbo omnibus bill (S 3297) designed to overcome Republican "holds" on a broad array of legislation. However, on July 28 most Republicans refused to go along with a vote to remove the hold until the Senate took up unrelated energy legislation.

The good news for the omnibus bill

is that Senate Majority Leader Harry Reid (D-Nev.) was negotiating with Republicans senators to put together a separate package of energy bills. The bad news is the Senate and House are scheduled to go on a month-long holiday today (August 1.)

If the Senate passes the omnibus bill, it will provide hope for a separate omnibus bill (S 3213) that includes about everything approved by the Senate Energy Committee in the last year. However, if the Senate continues to wrangle over energy amendments, S 3213 may never see the light of day.

At press time the Senate Energy Committee staff was not looking that far ahead. "Nothing is scheduled in the near term and we don't expect it to come up until September," said a Democratic committee staff member.

Posing more difficulty for the Senate Energy Committee package that is packed with park and rec initiatives, Republicans have not signed on yet. Indeed, ranking committee Republican Sen. Pete Domenici (R-N.M.) reportedly is concerned about the bill, in part because it includes legislation (S 1139) to certify the 26 million-acre National Landscape Conservation System managed by the Bureau of Land Management.

The Senate Energy Committee approved S 1139 May 23, 2007, but the bill has not moved since. The House approved its version of a bill (HR 2016) April 9.

While Domenici personally may not object to the bill other committee members may, said a Republican committee staff member. "On the Republican side there are problems with it," said the Domenici aide. "Our staff works with all members. The way the process works if we have a Republican who objects to a bill, we try to work it out before it goes into the package."

But the Republican staff member said the committee's omnibus bill still may go through until fall. "There is a dialogue going on," he said. "As we get closer to the end of the session the situation may get clearer."

The omnibus bill that was before the Senate July 28 picked up not only the beaches act but also several bills dealing with the oceans. And it included dozens of other measures under the purview of the Senate Environment and Public Works Committee, as well as bills dealing with health, education, the law, foreign relations, commerce, and homeland security.

S 3297 does not include any of the 90 bills passed by the Senate Energy Committee that are in the other omnibus bill, S 3213.

The Democrats put both omnibus bills together for one reason - to create a critical mass to overcome holds placed on all legislation by Senate Republicans, particularly Sen. James Coburn (R-Okla.) By themselves individual bills would not be able to overcome the holds (60 votes are needed), but en masse they stand a better chance.

The beaches bill, approved by the House April 16 by voice vote (HR 2537), would increase the authorization for grants to states to monitor the health of beaches. Under an existing 2000 law Congress may authorize up to \$30 million per year in grants, although appropriators usually put up \$10 million. HR 2537 would increase the authorization to \$40 million. S 3297 would increase it to \$60 million. Both bills would extend the law through 2012.

The bill also addresses - but does not resolve - a controversy noted by the Government Accountability Office: EPA allocates grants to states based almost entirely on the length of the beach season, and not on the number of visitors to beaches. Thus, some states with lengthy beaches and short seasons qualify for much less grant money than states with short beaches and long seasons.

HR 2537 directs EPA to conduct a study over the next year of the formula it uses to distribute grant money to states.

The original Beaches Environmental Assessment and Coastal Health Act (BEACH Act, PL 106-284) was signed in 2000 and

has been used since to identify bacteria in coastal waters and beaches. Rep. Frank Pallone, Jr. (D-N.J.) is the lead sponsor of the new bill (HR 2537.) Sen. Frank Lautenberg (D-N.J.) is the lead sponsor of a Senate bill.

Beaches are in the news now because the Natural Resources Defense Council published this week an annual report on beaches closed by pollution. The council said the number of closure and advisory days topped 20,000 in 2007. That was the second most in 18 years, said the council.

The oceans bills pick at the edges of recommendations handed down in December 2004 by a U.S. Commission on Ocean Policy. Among other things the commission recommended the establishment by Congress of a \$3.2 billion fund to pay for ocean protection programs. The fund would be financed by oil and gas royalties from offshore oil and gas development.

In the House Rep. Sam Farr (D-Calif.) has introduced a bill (HR 21) to accomplish some of those recommendations with a \$1.2 billion fund. HR 21, approved by the House subcommittee on Fisheries, Wildlife and Oceans April 23, would allocate the lion's share of the fund to states, beginning at \$350 million per year in fiscal 2008 and rising to \$1 billion in fiscal 2010 and thereafter. The remainder of the money would be allocated to federal agencies beginning at \$50 million per year and rising to \$300 million in fiscal 2010 and thereafter. The money would be guaranteed and would not require an annual appropriation.

However, the omnibus Senate bill does not address broad oceans policy. Instead it would authorize programs dealing with hydrographic services, exploration, mapping, sea grant colleges, coastal observation, and ocean acidification.

## **Reclamation tries again with rules on cabin use**

The Bureau of Reclamation proposed regulations last month that it believes

will not force widespread forfeiture of cabins and trailers on bureau land.

Reclamation had proposed regulations a year ago (July 18, 2007) that cabin and trailer owners feared would have allowed Reclamation to take their sites.

But, said Dan DuBray, a spokesman for the bureau, "Almost all would meet the new (proposed) regulation. The regulation simply would codify the method for review of the sites on a regular basis and extend the permits."

In a second potentially controversial change the bureau formally proposed procedures for allowing nonfederal water district managers to contract for small uses, such as canal crossing permits. Again, those water projects feared the July 2007 proposed regulations would take away their authority to issue the permits.

Recreation isn't always the paramount concern of the Bureau of Reclamation. It focuses primarily on giant water projects. However, over the years Congress has authorized those projects piecemeal. Furthermore, Congress has provided different authorities to projects, such as some may authorize free use by communities and other projects may not.

The bureau manages more than 600 dams and reservoirs in 17 western states, including Hoover Dam and Grand Coulee dam. It manages 58 power plants.

The bureau also manages, with its partners, 289 recreation sites on 8.7 million acres that host 90 million visits annually. The proposed regulation of July 18 covers rights to use Reclamation facilities. Separate regulations govern recreational access.

DuBray said the bureau will hold a 60-day comment period on the proposed regs and then a 30-day review of the comments, leaving enough time to complete the regulations on the Bush administration's watch. "I think it is their intent to get all these rule changes done in this administration," he said.

Because the Bureau of Reclamation does not collect relevant data on a national basis, it doesn't know how many cabins and trailers owned by private citizens are housed on its lands. Those cabins and trailers are used primarily for recreation.

The bureau last year grew concerned that Interior Department policy forbids "private exclusive residential use" on public lands. So the proposed regs of last July would have tightened Reclamation's rules.

But the private citizens rebelled and contacted their Congressional delegations. "The previous proposal did not make changes in the right to residential use," said DuBray, "but there were concerns that the proposal would open a window and they would fall out."

So, reportedly, Reclamation struck a deal with the residential users and the new proposal would not eliminate large numbers of cabins and trailers. The proposal would have the bureau review each permit every five years.

The bureau would require a residential user to meet five standards before a renewal request could be extended for 20 years: compatibility with authorized projects, compatibility with public needs, environmental compliance, would not endanger public safety, and the user holds no debt to Reclamation.

Separately, the proposed regulations would allow recreation managing partners, such as water districts, to continue to contract with Reclamation for authority to issue use permits. That saves Reclamation millions of dollars a year in overhead.

Again, the authority would be subject to limitations, such as a contract could not convey ownership to federal property, the uses must be temporary and Reclamation would retain the power to revoke contract authority at its discretion.

The Bureau of Reclamation will take public comments until September 16 to: Bureau of Reclamation, Denver Federal Center, P.O. Box 25007, Denver, CO

80225-0007, Attention: Richard Rizzi, Mail Code: 84-53000 or through the website <http://www.regulations.gov> (docket number BOR-2008-0004)

## GAO review of FS move to Interior spurs questions

A Government Accountability Office (GAO) review of the pluses and minuses of moving the Forest Service to the Interior Department has created wide-ranging speculation among interested parties.

The American Forest and Paper Association (AF&PA), a major opponent in the past, was noncommittal. "AF&PA believes that regardless of where the administrative responsibility for management of these lands lies, it is important for the federal government to be a responsible steward of the land, and ensure the sustainability of the resources," said a spokesman.

Interested parties interviewed by FPR provide different perspectives on the GAO work. For instance, Derrick Crandall, president of the American Recreation Coalition, said GAO "has ruled out a merger of the Forest Service and BLM (Bureau of Land Management.) They are looking at a transfer of the Forest Service to Interior without any structural changes in the agency."

But George Leonard, chairman of the board of the National Association of Forest Service Retirees, said he doesn't anticipate firm recommendations from GAO, just a review of possibilities. He said that "based on my interview with the GAO review team, it was my understanding they did not expect to have a recommendation, but rather their report would simply discuss the pros and cons and identify the problems and issues that would need to be addressed if a decision was made to consolidate."

At the request of Rep. Norman Dicks (D-Wash.), chairman of the House subcommittee on Interior and related agencies, GAO is studying the advisability of transferring the Forest Service to the Interior Department from the Department of Agriculture.

GAO reportedly has conducted 70 of 100 interviews and expects to draft recommendations this fall and present a final report to Dicks in February. If Dicks - or authorizing committees - decide to move the Forest Service, it would presumably begin in fiscal year 2010.

Dicks has repeatedly complained about Bush administration budget requests for the Forest Service. And he is reportedly interested in seeing if the Forest Service would fit in the Interior Department.

Even if the Forest Service is moved in total, it may not last as a separate entity, said Leonard, whose group's thinking sometimes approximates the thinking of current employees. "Certainly moving the agency as a whole would be more acceptable than splitting the pieces, but we would be concerned this might simply be a way to reduce opposition to the move," he said. "It seems unlikely that in the long run USDI would maintain two natural resource research organizations."

Leonard and Crandall seem to agree (1) that the Department of Agriculture in recent years has not backed Forest Service land management programs, but (2) the Interior Department gives so much priority to the Park Service it may not support the Forest Service either.

Said Crandall, "Our position is we are not opposed but are looking for more cooperation among all federal land management agencies. At this point I'm not convinced that moving the Forest Service to Interior is a silver bullet solution. At Interior the National Park Service is the favored child and other agencies are stepchildren. The idea that Interior might help the Forest Service budget is not likely."

Leonard agreed that USDA had not been a big help. "The lack of support from USDA in resolving the problems of funding fire suppression and maintaining a viable budget for the Forest Service has been a major disappointment, particularly when budgets for the National Park Service and the Fish and Wildlife

Service have seen continuing, yet inadequate, growth," he said.

But Interior may not be much better," he said. "We are aware, however, that the budget for the Bureau of Land Management, whose land management mission is closest to the Forest Service, has not received the same level of support from USDI (as NPS.) If you exclude funding of energy related programs, the multiple use activities of the Bureau have not fared well within the USDI budget in recent years," said Leonard.

The idea of moving the Forest Service to the Interior Department to establish a Department of Natural Resources has been around for decades. In the 1970s the Carter administration toyed with the proposal and former Sen. Mark Hatfield (R-Ore.) aggressively advanced it. But the great cost combined with political resistance from Forest Service clients such as AF&PA

## **NPS will open Sylvan Pass in Yellowstone in the winter**

Personal safety is still paramount, but the Park Service said July 21 it would open an eastern entrance to Yellowstone National Park as a matter of policy in future winters.

NPS in the past had talked about closing the eastern entrance that runs through Sylvan Pass in the winter for fear of avalanches. But Gov. Dave Freudenthal (D-Wyo.) and the state's Republican Congressional delegation have objected.

So NPS July 21 announced that it had amended a December 13 decision that established winter use policy (i.e. snowmobiles) to keep the eastern entrance and Sylvan Pass open.

Said NPS's Intermountain Region, "Beginning in the 2008-2009 winter season, Yellowstone's East Entrance and Sylvan Pass will be open for motorized and non-motorized oversnow travel for a limited core season from December 22 through March 1 each winter, subject to weather, safety, equipment, and fiscal constraints."

Freudenthal applauded but said he was leery of the conditions NPS added at the end. "I hope in the future the Park Service will not use this vague language as justification for closing Sylvan Pass," he said. "We look forward to working with the Service to keep the pass open so that businesses in Park County can rely on continued winter access going forward."

The Republican Congressional delegation praised NPS and the Bush administration. Said Rep. Barbara Cubin (R-Wyo.), "The fight over Sylvan Pass represented much more than just another management decision in Yellowstone National Park. It was about the Town of Cody maintaining their economy. It was about the State of Wyoming maintaining its heritage. This is a great victory for the citizens of Wyoming, snowmobilers across our nation, and anyone who stands for open access to our public lands."

The Park Service issued a final rule Dec. 13, 2008, that for this past winter (2007-2008) authorized snowmobile use at the levels of the three previous winters. That is, up to 720 machines a day in Yellowstone and 140 per day in Grand Teton National Park and the John D. Rockefeller, Jr., Memorial Parkway. NPS also limited the number of snowcoaches in Yellowstone to 78 per day.

In re Sylvan Pass the December rule allowed it to remain open to motorized oversnow travel this past winter.

For the 2008-2009 season and henceforth the rule allows up to 540 snowmobiles per day in Yellowstone and 83 snowcoaches. All snowmobiles and snowcoaches would have to use best available technology. All snowmobiles would have to be led by commercial guides. NPS would allow 65 snowmobiles per day in Grand Teton and the parkway.

The State of Wyoming and a coalition of environmental groups have filed competing lawsuits against the decision. The state contends the Park Service decision does not allow enough snowmobiles in the park and the environmentalists contend it allows too many. Both

argue that the science NPS used to back its EIS, plan and regulations is flawed.

## Notes

**Approps delayed until fall.** The Senate Appropriations Committee canceled a scheduled mark-up of an Interior and related agency appropriations bill last week, a move with ominous implications for completion of park and rec spending legislation this year. Republican senators said the Democrats fear amendments that would open up public lands for energy development. The same energy amendments have stalled a counterpart bill in the House Appropriations Committee. The Senate committee had scheduled a mark-up of a fiscal year 2009 Interior for July 23. But on July 22 committee chairman Robert Byrd (D-W.Va.) cancelled the meeting. The committee did not meet this week. The House and Senate were scheduled to begin a month-long vacation today (August 1.) Other domestic appropriations bills aren't threatened directly by energy amendments but Republicans may still want to tie them up with riders. Besides, all domestic appropriations bills have another problem - they ask for far more money than the Bush administration is willing to spend. Still, the Senate Appropriations Committee approved a Transportation appropriations bill (S 3261) July 9. The House Appropriations subcommittee on Transportation marked up a counterpart bill June 20. In addition the Senate Appropriations Committee approved an Energy and Water bill (S 3258) July 10. The House Appropriations Committee approved a similar bill June 25.

**FS roadless rule for Colorado backed.** The Forest Service Roadless Area Conservation National Advisory Committee July 30 reviewed a State of Colorado request for a state-specific management rule for roadless national forest lands in the state. Hunters and fishermen asked the Forest Service to go slowly in completing the proposed rule. The Theodore Roosevelt Conservation Partnership (TRCP), Trout Unlimited, and Colorado Backcountry Hunters and Anglers July 23 urged a delay in consideration of the proposed plan. The sportsmen fear that oil and gas development under the proposal could harm fish and wild-

life habitat. "Sportsmen are concerned that a summer release date for Colorado's roadless plan could harm the state's abundant fish and wildlife, as well as fishing, hunting and recreation in some of the West's last, best remaining national forest backcountry," said Joel Webster, manager of the TRCP roadless initiative and member of Backcountry Hunters and Anglers' national board. Technically, a May 13, 2005, Bush administration roadless area rule that established the state petition process is null and void because a federal court issued an injunction against it on Sept. 19, 2006. That injunction restored a 2001 Clinton administration rule that limits road construction and timber cutting on 58.5 million acres of forest. However, the administration is working around the court's ruling by processing state petitions under the Administrative Procedures Act. .

#### **NPS fireman dies in California.**

Andrew Palmer, an 18-year-old National Park Service firefighter, died July 25 while fighting a fire in the Shasta-Trinity National Forest in Northern California. Palmer was based in Olympic National Park in Washington State. NPS Director Mary A. Bomar ordered all flags in the National Park System lowered to half-staff.

**Senators would revise gun tax collection.** Sens. Max Baucus (D-Mont.) and Mike Crapo (R-Idaho) introduced legislation (S 3331) July 24 that would revise the timing of the payment of firearms and ammunition taxes. Instead of paying their taxes every other week into the Pittman-Robertson hunting fund, manufacturers would pay quarterly. That would allow the manufacturers to invest their money into research, yielding new products and, possibly, increased sales and more tax revenues, said Crapo. Major sportsmen groups support the legislation. Rep. Ron Kind (D-Wis.) and three other members have introduced a counterpart House bill (HR 6310.)

#### **Bill would expand FS ski uses.**

Rep. Mark Udall (D-Colo.) introduced legislation (6553) last month that would allow ski resort permittees to provide recreational uses beyond "nordic and

alpine skiing." The National Ski Areas Permit Act of 1986 says ski resorts that hold permits to use ski slopes on national forest lands may allow nordic and alpine skiing on national forest lands. The law says nothing about snowboarding and other recreational uses of ski slopes. Udall says the National Ski Areas Association told him about the possible limitation and he agreed to write and introduce HR 6553. It would allow permittees to construct facilities for other kinds of outdoor recreation.

## **Conference calendar**

### AUGUST

8-11. **Outdoor Retailer Summer Market 2008** in Salt Lake City. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

11-15. **National Speleological Society** annual meeting in Lake City, Fla. Contact: National Speleological Society, 2813 Cave Ave., Huntsville, AL 35810-4331. (256) 852-1300. <http://www.caves.org>.

17-21. **American Fisheries Society** annual meeting in Ottawa, Canada. Contact: American Fisheries Society, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199. (301) 897-8616. <http://www.fisheries.org>.

### SEPTEMBER

18-21. **Land Trust Alliance** rally in Pittsburgh, Pa. Contact: Land Trust Alliance, 1331 H St., N.W., Suite 400, Washington, DC 20005-4711. (202) 638-4725. <http://www.lta.org>.

25-27. **National Recreation and Park Association** congress and exposition in Indianapolis, Ind. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. <http://www.nrpa.org>.

30. **Outdoor Industry Association Rendezvous** in Boston. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.